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RELIGIOUS FREEDOM IN EUROPE AND AROUND THE WORLD

HEARINGS

BEFORE THE
SUBCOMMITTEE ON EUROPEAN AFFAIRS
AND THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE
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FIRST SESSION

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ANNUAL REPORT OF THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

JUNE 5, 2001

The following witnesses appeared together as a panel:

Kazemzadeh, Dr. Firuz, former Vice Chairman, U.S. Commission on International Religious Freedom, and senior advisor, National Spiritual Assembly of the Baha'is, Alta Loma, CA	
Saperstein, Rabbi David, former Commissioner and Chair, U.S. Commission on International Religious Freedom, and director, Religious Action Center for Reform Judaism, Washington, DC	
Shea, Nina, Commissioner, U.S. Commission on International Religious Freedom, and director, Center for Religious Freedom, Freedom House, Washington, DC	
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RELIGIOUS FREEDOM IN EUROPE

TUESDAY, MAY 1, 2001

U.S. SENATE,
SUBCOMMITTEE ON EUROPEAN AFFAIRS,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:24 a.m. in room SD-419, Dirksen Senate Office Building, Hon. Gordon H. Smith (chairman of the subcommittee) presiding.

Present: Senator Smith.

Senator SMITH. Ladies and gentlemen, we'll convene this hearing of the Senate Foreign Relations Subcommittee on European Affairs. We thank all of you for your presence. We're here on a topic I think that goes to the fundamental values that we hold in the United States and about which we remain concerned.

Let me just say parts of my opening statement that I don't read I'll include them in the record, but I know we need to be careful in this hearing in the sense that we recognize our European allies as in many ways the parents of this nation. They are sovereign countries. They are our friends, and from them the American nation has drawn much of its law and its traditions, its values, its customs, and we in no way want to suggest in any of our testimony today that we condone under the cloak of religion that which would be criminal. But we do want to express clearly how concerned we are about some recent cases that we find cropping up around Europe that certainly don't square with the Western democratic traditions in human rights that Europe has fostered in so many ways for so many centuries.

So we are going to hold this hearing on a rather general topic of religious freedom in Europe. I've asked our witnesses to focus on what we see as a disturbing trend in a few European countries who actually target religious organizations through the establishment of official government lists and whose official government departments do keep tabs on different churches.

In addition, we've also asked Rabbi Baker to speak briefly about anti-semitism in Europe in conjunction with the ongoing problems with religious freedom. Rabbi Baker will be joined with David Harris at a later hearing that will specifically focus on anti-semitism, specifically as we see it manifest abroad in so many ways. It will be a more in-depth hearing on that more narrowed issue, a very critical one.

This last January Senator Hatch and I traveled to Europe to participate in the Davos Conference. We stopped off in Paris for a series of meetings with French officials regarding pending legislation

in the French Senate that would criminalize so-called “mental manipulation” a term so broad that it would allow authorities to convict Sunday School teachers in a number of churches. It also authorizes the dissolution of religious groups if one of their leaders has committed two or more crimes, and it penalizes attempts to reconstitute these religious organizations or cults as they’re termed under another name.

There has been a huge outcry from countless human rights groups since the introduction of this legislation last year, and I have joined in that outcry. That legislation last year passed the National Assembly, its lower house, and I’m told that the French Senate may vote on it as early as this Thursday, May 3.

Again, our concern about this legislation has nothing to do with the legitimacy of any government, particularly France’s Government, to go after criminality, such that we witnessed in the 1995 Solar Temple suicides, but our concern is how this could spill over into the human right of worshipping God.

Unfortunately, this sentiment that we see in France is being manifest in other countries as well. It was interesting in our meetings with the French officials they indicated the difference of our tradition versus theirs. In France the government’s duty has always been to protect their citizens against religion. That was how they described it. In our country, which was in part built by French Huguenots, the duty of our Constitution is to protect religions from government, and so we do come at this issue from a different perspective.

But clearly France’s status and standing among—and stature among the family of nations is one of enormous influence, and neighboring Belgium recently established a list of dangerous sects or churches and the list would shock Americans if they knew what churches were regarded as dangerous in Belgium. I want to first acknowledge that since this came out and criticism arose the Belgians have made some progress on this score and are treating a number of these churches better in their visa policies than was the case in the not to recent past.

So I thank the Belgians for improvements they’ve made, but the list of these dangerous churches includes the Amish amazingly, the Seventh-Day Adventists, the Assemblies of God, the B’ahais, the Calvary Christian Center, the Church of Jesus Christ of Latter-Day Saints, and the Pentecostals, the Jehovah’s Witnesses. I can’t imagine such a list existing in any Western country. Many of these faiths have been in this country for a century and more. They contribute dramatically to our society in America and they have existed peacefully in Belgium for centuries as well.

This difficulty, targeting religions, extends to Austria and Germany, who’ve set up quasi-governmental bodies to deal with religious movements. In Austria there is a Federal office on sects, and in Germany a parliamentary commission was set up to investigate these sects. We look forward to hearing from our witnesses about this trend.

I’d first like to welcome Mr. Michael Parmly, Acting Assistant Secretary of State for Democracy, Human Rights, and Labor, and then after Mr. Parmly we’ll hear from Elizabeth Clark. She is the associate director of the BYU International Center for Law and Re-

ligion Studies. Ms. Clark is an expert in the field of religious freedom and works with Professor Cole Durham, director of the same BYU center.

Ms. Clark, we welcome you, and I understand that both you and Professor Durham have collaborated on your testimony.

And on this panel also we'll have Rabbi Andrew Baker, director of International Jewish Affairs from the American Jewish Committee. Rabbi Baker, I thank you for coming and giving your perspective on religious freedom in Europe.

So we'll start with our first panelist, Michael Parmly. Thank you for coming here and representing our Government in this important area.

STATEMENT OF MICHAEL PARMLY, ACTING ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, DEPARTMENT OF STATE, WASHINGTON, DC

Mr. PARMLY. Thank you, Senator. Thank you very much, and let me start by thanking you and your committee, but especially you personally for your active involvement in this issue. You may want to ask questions about this. I don't address it in my testimony, but you have made an enormous difference in the situation on the ground in Europe by the concern that you have shown, and I can list out a number of instances where I've seen that effect.

So thank you—

Senator SMITH. Thank you for that comment. I would also note—well, Senator Biden isn't here because he's been detained by other Senate duties. He has also been an absolute stalwart in support of my efforts and in support of his efforts on this—what I regard as the first human right, and that's the right of conscience.

And so I note his absence but thank him for his support and offer that apology that he's not here, but he has other things that hold him away from us today.

Mr. PARMLY. I understand.

If I could start with some of my prepared remarks—I won't go through the full statement but I'd like to highlight some points in it.

It is my privilege to appear before you today to testify on this issue. I was just in a meeting with the Secretary, by the way, with the International Religious Freedom Commission, which presented its annual report to him, and we talked about the issue of religious freedom in Europe, and the Secretary expressed his concern as well.

It's important to note that it is not our differences with European democracies regarding religious freedom that we wish to highlight, but rather to bring the discussion to what we share: a demonstrated commitment to protecting the dignity of all human beings. Our respective historical and cultural backgrounds have produced however, as you highlighted, Senator, different path ways to the goal of freedom of conscience and religion.

We must keep these differences in mind as we review the status of religious freedom in Western Europe and as we engage with the Europeans as you have done so effectively, Senator.

I do want to be clear, and I who have spent much of my career in Europe, it must be said religious minorities are treated better

in Western Europe than in most other regions of the world. In relative terms the citizens of Western Europe enjoy a measure of freedom that is the envy of aspiring democracies around the globe. Persecution on the basis of religion in the form of brutal activities by governments, things such as prolonged detention without charge, torture, slavery simply do not exist there as tragically they do elsewhere in the world.

Our differences can be seen at both the institutional and societal levels. Pluralism within our culture and diversity within religions has marked American society since its origin. The search for religious liberty compelled the very first migrant groups to America from Europe, whose religious history was often dominated by the monopoly of one faith in each national context. Less mobile societies with a far more homogeneous tradition and culture have influenced the evolution of attitudes of European countries toward religion.

There are distinctly different attitudes among European countries toward religion, some almost non-practicing, others deeply religious, others you've got both traditions, and I think it's important to highlight that in France you have both traditions.

In most European countries, however, neither religious expression nor minority religions have played the same positive role and there's not a recognition of the positive role in civil society that we recognize in our country. The relative recent increase of minority religions in Europe and their emergence into the public arena has been viewed as a source of disruption and a cause for alarm.

All too often the initial reaction of public officials, which is generally supported by most European populations, is that minority religions need to be regulated and controlled rather than welcomed and encouraged. It is the difference of perspective that you highlighted, Senator.

The recognition of religious communities by the state as demonstrated in for example Belgium, Germany, Spain, and Italy means that the state determines what is officially a religion. If the criteria set by the state are met a legal recognition of the new religion is granted and its relationship with society at large is regulated. This regulation may evidence itself in such areas as prayer permits, tax benefits, right to perform marriages, and chaplains in the military.

We are concerned, we in the State Department—but I think we in America—are concerned that in some European countries the regulatory tradition is being expanded and is increasingly subject to abuse. Whether the Western European countries have state religions as in Denmark or the United Kingdom, or alternatively have a so-called strict separation of church and state as in France and the Netherlands—and perhaps in the questioning we can talk about why I say so-called—the same basic approach is taken.

It appears to reflect a belief that religious expression should either be compatible with commonly accepted social traditions or remain totally in the private sphere of the believer. As Europe's population becomes more culturally and religiously diverse this so-called privatization of belief is coming under challenge, not only from new religions but from traditional religions as well.

Senator, you did pay special attention to France and as you may know from my background I was the Political Minister Counselor at our embassy in France 3 years up until last year so I might be able to address that in even more detail perhaps than you would actually want. But I do want to call your attention to pending legislation in France that you're aware of that we believe has the potential to adversely affect religious freedom.

The About-Picard bill provides for the dissolution of associations, including religious associations, whose leaders have two or more convictions on any of a variety of offenses. Among applicable offenses elaborated under the current French law are two or more convictions for fraudulent abuse as the result of a state of ignorance or of a situation of weakness, for example, abuse of a minor. Although the proposed bill does not apply exclusively to religious groups it is clearly intended to target the new and less familiar religions in France.

We are concerned that the language in this context is dangerously ambiguous and could be used against legitimate religious endeavors such as religious schools, seminaries, monasteries, or retreats.

It's important to note here that many in France have spoken out about the About-Picard bill, including leaders of recognized religions who have had a significant impact I think on the legislation, as well as a number of senior French political leaders. We understand that the bill will be considered, as you indicated, on May 3 by the French Senate, and that there is still an opportunity for substantial alterations. I don't want to overplay that, but there is a chance.

We will be watching very closely. I was on the phone with the embassy this morning. Even though it's May 1 and therefore a holiday I had colleagues in the embassy and they're working on this issue as we speak.

We understand that the Council of Europe issued a declaration on April 26 calling on the French Senate to delay its May 3 vote, and citing its concern that the legislation could be discriminatory and violate human rights standards.

Unfortunately, Mr. Chairman, the example in France is not an isolated one. We're equally concerned about the other phenomena that you mentioned regarding religious sects in Austria and Belgium as well as in France, and perhaps more importantly, because Europe does have this attraction quality, the fact that countries that are applying to join the European Union are considering similar legislation. Europe does have a special responsibility, especially as it is moving to expand, and that is a special responsibility that I hope they are fully conscious of.

In some cases European officials are actively promoting the "French model" of regulating religious activity. Typically these policies involve the creation of a government agency as you indicated to protect citizens against dangerous cults. Under the proposed French legislation as it currently stands definitions of dangerous—of quote "dangerous" extend to ambiguous categories such as mental subjection.

I've had a hard time coming up with a legal definition of what mental subjection is, but I don't think I like the implications. Few

if any religions could withstand prosecution under such a charge. The French Interministerial Commission to Combat Sects investigates suspected cults after receiving public complaints, and there are a few dangerous organizations, as you indicated, such as the Solar Temple that have been identified, but other mainstream religious groups such as Jehovah's Witnesses have learned that they too are included on the list, a list of some 168 organizations.

At the direction of the Belgian Parliament, the Belgian Government has established a Center for Information and Advice on Harmful Sectarian Organizations in October of last year. The center collects and disseminates information on so-called harmful sectarian groups, including some mainstream religious groups and lay organizations—and you cited a number of them. It really does curl the hair.

It also devises evaluative criteria for the groups in order to assess the risk for activities such as brainwashing, financial exploitation, and isolation from the family. A separate coordination cell in which various law enforcement agencies are represented has been established.

I don't want to go on too long. I think I'd rather let my statement speak for itself. There are other details in there. You might ask legitimately what are we doing about it? We are concerned that such policies are becoming institutionalized in some parts of Europe and have the effect of appearing to justify restrictive laws elsewhere, such as Russia, Central Asia, and China.

You're doubtless aware that in late September the House passed unanimously Resolution 588, which expresses grave concern about these developments and calls upon the President and the Ambassador-at-Large for International Religious Freedom to press the issue with the OSCE countries. In response the head of the U.S. delegation to the OSCE implementation review meeting in Warsaw in October of last year detailed U.S. concerns regarding religious freedom in Austria, France, Belgium, and called upon those governments to close their sect offices.

In addition, the Director of the State Department's Office of International Religious Freedom, Tom Farr, who is accompanying me here, and who is as valiant a spokesman on this issue as I think the U.S. Government could ever have, has traveled to Europe to express U.S. concerns directly to the government's concerned. But I think really, Senator, nothing can replace the effect that your trip to Europe had earlier this year. The effect I think was profound.

That doesn't mean that on May 3 in the Senate it will come out exactly as we want, but I think we've already started to see an effect, and I'm extremely grateful to you for it.

We have concerns regarding more targeted discrimination in Germany toward the Church of Scientology, the use of sect filters. I will say the German courts have made recent rulings critical of this practice. That is important, and it also underlines the importance of us taking the right approach in order to get the right result. My bureau has a motto, what's the effect on the ground? That's what matters to us the most, because those are the people who are suffering religious persecution.

Let me say in summary we believe that a government that fails to honor religious freedom—and this echoes your words, Senator—and freedom of conscience is a government in danger of not fully recognizing the priority of the individual over the state but rather that the state exists to serve society and not vice versa. Let me close as I began.

The United States and the countries of Western Europe share a strong commitment to universal human rights, including religious liberty. We work together very closely in a number of spheres, including in the human rights sphere, and I'd like to draw on that tradition of working together.

We have a relationship of cooperation in many areas, including defense and trade. When we have disagreements we have developed over recent decades a habit of cooperation which has stood us in good stead and enabled us to overcome our differences.

Last week I participated in a symposium that Tom Farr organized as well as others, very outspoken and courageous people in the private sector, sponsored in part by the Institute of Religion and Public Policy. The purpose of the symposium was to place on the table our differences with respect to religious freedom and to begin a transatlantic dialog that can lead to better understanding and in due course create the same habit of cooperation that we have in other fields.

I hope that my testimony today will serve the same purpose. At the end of the day it's not our differences with the European democracies but our deep respect for them and their traditions that leads us to express our concerns.

In closing, thank you again, Mr. Chairman, for your active involvement on this issue. We couldn't do it without you.

[The prepared statement of Mr. Parmly follows:]

PREPARED STATEMENT OF MICHAEL E. PARMLY

THE TREATMENT OF RELIGIOUS MINORITIES IN WESTERN EUROPE

Chairman Smith and Members of the European Affairs Subcommittee, it is my privilege to appear before you today to testify on the status of religious freedom and the treatment of religious minorities in Western Europe. Let me first express our deep appreciation for your strong interest and contributions to our goal of promoting religious freedom.

It is important to note that it is not our differences with European democracies regarding religious freedom that we wish to highlight in this report but what we share: a demonstrated commitment to protecting the dignity of all human beings. However, it is true that our respective historical and cultural backgrounds have produced different pathways to the goal of freedom of conscience and religion. We must keep these differences in mind as we review the status of religious freedom in Western Europe.

Let me be clear: it must be said that religious minorities are treated better in Western Europe than in most other regions of the world. In relative terms, the citizens of Western Europe enjoy a measure of freedom that is the envy of aspiring democracies around the globe. Persecution on the basis of religion, in the form of brutal activities by governments—such as prolonged detentions without charge, torture, and slavery—simply do not exist there as they tragically do elsewhere in the world.

Rather, our differences can be seen at both the institutional and societal levels. Pluralism within our culture and diversity within religions has marked American society since its origin. The search for religious liberty compelled the very first migrant groups to America from a Europe whose religious history was often dominated by the monopoly of one faith in each national context.

The United States is now a land of old and new religions, each providing a means of seeking ultimate truth about human purpose and destiny, developing systems of worship and codes of morality. As such American religions have become widely ac-

cepted vehicles for establishing personal identity and for mobilizing people through associations. The United States is arguably the most religiously practicing country of the Western World: 90% of the population pray daily or weekly, 70% are members of a congregation, 40% attend a services on a weekly basis. Religious expression is part of the landscape of American liberty, enriching the discourse over public policy.¹

Less mobile societies, with far more homogeneous traditions and cultures, have influenced the evolution of the attitudes of European countries toward religion. There are distinctly different attitudes among European countries to religion: some almost non-practicing, others deeply religious, while others are deeply divided. In most European countries of modern times, neither religious expression nor minority religions have played the same positive role in civil society as they have in the United States. The relatively recent increase of minority religions in Europe and their emergence into the public arena has been viewed as a source of disruption and a cause for alarm. All too often, the initial reaction of public officials, which is generally supported by most European populations, is that minority religions need to be regulated and controlled rather than welcomed and encouraged.

The recognition of religious communities by the state as demonstrated in, for example, Belgium, Germany, Spain and Italy means that the State determines what is officially a religion. If the criteria set by the State are met, legal recognition of the new religion is granted and its relationship with society at large is regulated. This regulation may evidence itself in such areas as prayer permits, tax benefits, right to perform marriages, and Chaplains in the military.

As I will argue shortly, we are concerned that in some European countries the regulatory tradition is being expanded, and is increasingly subject to abuse. Whether the Western European countries have “state religions” as in Denmark and the United Kingdom or alternatively have a strict separation of church and state as in France and the Netherlands, this same basic approach is taken. It appears to reflect a belief that religious expression should either be compatible with commonly accepted social traditions or remain in the private sphere of the believer. As Europe’s population becomes more culturally and religiously diverse, this “privatization” of belief is coming under challenge—not only from the new religions, but from traditional religions as well.

With this background in mind, I want to call your attention to pending legislation in France that we believe has the potential to adversely affect religious freedom. The About-Picard bill provides for the dissolution of associations (including religious associations) whose leaders have two or more convictions on any of a variety of offenses. Some applicable offences are already elaborated under current French law, including fraudulent abuse as a result of a state of ignorance or of a situation of weakness—for example abuse of a minor. Although the proposed bill does not apply exclusively to religious groups, it is clearly intended to target the new and less familiar religions in France. We are concerned that the language in this context is dangerously ambiguous and could be used against legitimate religious endeavors, such as religious schools, seminaries, monasteries or retreats.

It is important to note here that many in France have spoken out against the About-Picard bill, including leaders of the recognized religions, as well as a number of senior French political leaders. We understand that the bill will be considered on May 3, by the French Senate, and that there is still an opportunity for substantial alterations. We will be watching closely. We understand that the Council of Europe issued a declaration on April 26 calling on the French Senate to delay its May 3 vote and citing its concern that the legislation could be discriminatory and violate human rights standards.

Unfortunately, Mr. Chairman, this French legislation is not an isolated phenomenon. We are equally concerned about policies regarding religious “sects” in Austria and Belgium as well as France. Poland, the Czech Republic, Romania and Hungary are considering similar legislation. In some cases, French officials are actively promoting the “French model” of regulating religious activity.

Typically, these policies involve the creation of a government agency to protect citizens against dangerous cults. Definitions of “dangerous” extend to ambiguous categories such as mental subjection under the proposed French legislation. Few, if any, religions could withstand prosecution under such a charge. The French Inter-ministerial Commission to Battle Sects investigates suspected cults after receiving public complaints. While a few dangerous organizations (such as the Solar Temple)

¹ Warner (R. Stephen), “Work in Progress Toward a New Paradigm for the Sociological Study of Religion in the United States,” *American Journal of Sociology* Volume 98, Issue 5, March 1993, pp 1044-1093, p 1076.

have been identified, other main stream religious groups such as the Jehovah's Witnesses have learned that they, too, are included on the list.

At the direction of the Belgian Parliament, the Belgian government established a "Center for Information and Advice on Harmful Sectarian Organizations" in October 2000. The Center collects and disseminates information on so-called "harmful" sectarian groups, including some mainstream religious groups and lay organizations. It also devises evaluative criteria for the groups in order to assess the risk for activities such as brainwashing, financial exploitation, and isolation from family. A separate "Coordination Cell," in which various law enforcement agencies are represented, has been established.

We understand that a representative of the Information Center will normally attend Coordination Cell meetings, but will not necessarily share information with law enforcement officials if that would violate the Center's independence or the privacy of its informants. The Center uses as its starting point a list of 189 "sects" that came out of a 1997 Parliamentary inquiry into the harmful effects of organizations such as the "Solar Temple." Solar Temple has been involved in the deaths of 74 people (including one leader who was Belgian and a number of other Belgian citizens) in Europe and Canada since 1994. The list also includes the Southern Baptists, Mormons, Seventh Day Adventists, the Catholic prelature of Opus Dei, and the Young Women's Christian Association (YWCA).

The very existence of a government-mandated agency to provide information on "harmful" organizations strongly suggests an official judgment that the groups on which it maintains data are in fact "harmful." The Center will also maintain background information on the six officially recognized religions. The operation of such agencies in France and Austria has produced reports of societal discrimination against members of groups on the list.

We are concerned that such policies are becoming institutionalized in some parts of Europe and may have the effect of appearing to justify restrictive laws elsewhere, such as Russia, Central Asia and even China. You are doubtless aware that in late September the House passed unanimously Resolution 588 which expresses "grave concern" about these developments and called upon the President and the Ambassador-at-Large for International Religious Freedom to press the issue with Organization for Security and Cooperation in Europe (OSCE) countries.

In response, the head of the U.S. delegation to the OSCE Human Dimension Implementation Review Meeting in Warsaw, in October 2000, detailed U.S. concerns regarding religious freedom in Austria, France, Belgium and called upon those governments to close their "Sect Offices." In addition, the Director of the State Department's Office of International Religious Freedom has traveled to Europe to express U.S. concerns directly to the Governments concerned. Senators Smith and Hatch also conducted a fact-finding trip to France in January, and raised their concerns about religious minorities with the French government.

We have additional concerns regarding a more targeted discrimination in Germany toward the Church of Scientology. In Germany "sect filters" are still widely used in employment applications, although German courts have made recent rulings critical of this practice. Many German citizens who are Scientologists have been denied employment and lost their positions when their association with the Church of Scientology was made public. This discrimination against Scientologists by the German government is not limited to its citizens but has spread to the international community.

This was graphically evidenced by Germany's investigation of Microsoft Windows 2000 solely on the basis that one component of the software was developed by Mr. Craig Jensen, who is a member of the Church of Scientology in Glendale, California. Fortunately, the more egregious aspects of the German government's sect filter for government procurement have been removed because of our persistent efforts to underscore the potential conflict of this sect filter with international trade agreements.

Mr. Chairman, we believe that a government that fails to honor religious freedom and freedom of conscience is a government in danger of not fully recognizing the priority of the individual over the state, and that the state exists to serve society not vice versa. However let me close as I began. The United States and the countries of Western Europe share a strong commitment to universal human rights, including religious liberty. We have a relationship of cooperation in many areas, including defense and trade. While we have disagreements, we have developed over recent decades a habit of cooperation, which has stood us in good stead, and has enabled us to overcome our differences.

Last week I participated in a symposium of European and American experts on religion sponsored by the Institute on Religion and Public Policy, and supported by the Department of State's Office of International Religious Freedom. The purpose of that symposium was to "place on the table" our differences with respect to reli-

gious freedom, and to begin a Transatlantic dialogue that can lead to better understanding and, in due course, the same "habit of cooperation" that has characterized our association in other areas. I hope that my testimony today will serve the same purpose. At the end of the day it is not differences with European democracies, but our deep respect for them and their traditions, that leads us to express our concerns.

In closing, thank you again, Mr. Chairman, for your commitment to the cause of religious freedom. I would be happy to take your questions.

Senator SMITH. Well, thank you, Michael. It's my pleasure and my duty I think as a U.S. Senator, to ensure as we pursue our national interests, that we not forget our national values. I am reminded in history that part of what was so objectionable to the European monarchies in 1776 was—or actually when we established the constitution a few years later was the separation of church and state, and that there was no state religion. I think all of Europe took note of that and was alarmed by that revolutionary sentiment.

But the larger issue for me, if I can call you Michael, is Europe and America I think will always be bound in one way or another, but we seem to be pulling out the stitching on so many issues on so many fronts, on trade. We're just loaded with conflicts right now. On military matters these two continents seem to be drifting apart, and Europe wants to go a different way with its own army.

And then if we get to the issue of what values to underpin organizations like the NATO Alliance, if we no longer share, those values then we start really undoing the fabric of what creates this transatlantic alliance which has done so much good to foster peace and human rights and democracy in the world.

When Senator Hatch and I traveled to France we had been told they would not discuss this issue with us. We found the opposite when we got there. They were very forthcoming and frankly in private—and his name will not be on the record, but one told me that he believed that the law on the books was in fact a violation—could be a violation of the Helsinki Agreement on Human Rights, and that ultimately should it pass the French process it would be ruled out of bounds.

Do you think that's possible? Do you see it as inconsistent with the Helsinki Accord on Human Rights?

Mr. PARMLY. The law when it goes on the books, if it goes on the books as it currently stands, gets awfully close to what I see as violation certainly of the spirit of the Helsinki Final Act if not the letter of the Helsinki Final Act, and I think here we do draw upon civil society in France. I think the reaction in a number of these European countries has been sharing that concern. It's the government getting into really the private beliefs of people.

And that may be a reaction to a mass suicide on the side of a mountain, but don't throw the baby out with the bath water, and there is that sentiment which has started to come to the fore.

I don't know how the vote in the Senate is going to turn out. It didn't look good when I was there. I've been back for a year, but it didn't look good when I was there. I've been intrigued to see that it has lasted as long as it has, and I think that is a reflection of the disquiet within France, within French society. I'd like to believe it's the result of that, but it could still go through.

Would that be in violation of the Helsinki Final Act? I'm not sure. It certainly in our view would be in violation of the spirit of the Helsinki Final Act.

Senator SMITH. Different French officials also expressed a concern and observation that France was becoming so secular, so atheistic that it was increasingly becoming hostile to religion. When you were there did you find that was the case, and is this borne out of—this law, is it borne out of that kind of hostility?

Mr. PARMLY. No. I think if I could opine, Senator, I think the origin of the law was horror over scenes of mass suicides on the sides of mountains in Switzerland, in Belgium. I think that's the origin.

There are the different traditions in France just like there are different traditions in the United States. There is very much a lay tradition which says government should have absolutely nothing to do with religion whatsoever. That's one of the strings that is actually trying to pull back a bit on some of this legislation.

I think some of the reaction of people may be a reaction to personal experiences that they had, either a child or a relative who got into one of these groups that they find dangerous, and so they go broad brush. And the tradition of response to a problem in Europe is to regulate it.

Senator SMITH. Isn't it possible that these legitimate concerns that these countries have for what our—and I think you and all here would agree are not religious things but actually criminal things.

Mr. PARMLY. Right.

Senator SMITH. Aren't there criminal laws to deal with suicide cults that don't impinge upon the right of conscience to believe as one will?

Mr. PARMLY. One of the points that I made when I was in France—and I would raise this repeatedly with interlocutors within the government, Prime Minister's office, the Foreign Ministry, in Parliament, with the organized religions—is that you've got all the laws you need if that's your concern, the mass suicide. Why do you need additional laws? That was a point that I made, and it's a point that our embassy continues to make to the French authorities. Why do you need an additional law?

Senator SMITH. In Germany, if you can talk to me about Scientology for example, in what way could Germany's surveillance of Scientologists have a broader impact on religious liberty in Germany? Is there sensitivity to that, how this could spread?

Mr. PARMLY. Spread to other groups within Germany, in other words, that it—

Senator SMITH. For example—well, what does it say about religious liberty in Germany if they're putting this church or tradition under surveillance like that?

Mr. PARMLY. Thereto, it's hard to say what's behind people who introduce legislation or measures—administrative measures in Germany. I think a lot of it is a fear of—there's a lot of finger pointing. They're accusing us of being Nazis so we're accusing them of being Nazis, and terms like this get thrown around perhaps more freely than they should be.

Senator, to answer your question I'd like to think that there is not a danger that it could spread, but I'd rather not take that

chance, which is why if the administrative measures that one sees in Germany stay in place and are not rolled back as we are seeing them being rolled back by German courts and the Laender, that could then take hold the next time there is a religious group that people feel uncomfortable about. It's precisely because of that demonstration effect.

And then beyond that—and this is a deep concern, because I've spent a good part of my career in Eastern Europe in some of the countries that are applying to join, that's a demonstration value that—they want to get into Europe, and well, we'll just model our laws entirely on the laws in European countries and then we'll show our bona fides. And that's why the Europeans—Western Europeans, the EU members, have a special responsibility toward those countries that are applying.

Senator SMITH. And frankly why it's so dangerous for countries of the stature of France who are symbolically and actually the standards of fraternity and liberty and—

Mr. PARMLY. Equality.

Senator SMITH [continuing]. Equality. That's why frankly that's so alarming.

But let's talk about remedies, what we can do about it. Obviously we're talking to each other now and trying to put a spotlight on an area of concern. Not alarm, but concern.

In trade we have institutions to work out these differences. In military matters we work them out in the Pact of the North Atlantic Treaty Organization, and we come to resolution with our European friends.

What do we do in—if you have American citizens with missionary or religious responsibilities assignment to a European country where they're prohibited from entering even to pursue their free exercise of religion? What recourse should the United States take toward those countries who would deny our citizens the right of free exercise of religion in their countries? What do we do about it?

Mr. PARMLY. At the risk of sounding like a career State Department officer, sir, we start by keeping doing what we're doing. I think—I'm not being sycophantic—I really think you've had an impact. I think we have had an impact. I think we have raised the level of consciousness in European governments to the dangers.

Now then, we need to follow through, maintain that course, maintain the level—the decibel level. I would argue strongly from experience that to raise the decibel level too high produces the opposite effect of that which we desire. Show that we are concerned because we are allies. Show that we are concerned because we are friends. Yes, we're always going to have trade disputes, and that's almost a sign of health.

Hopefully we won't get into splits on military issues. I spent a number of years working on that as well at our mission to the European Union. Highlight for them the dangers at all levels through NGO's, through our legislative branch. I'd like to see this happen—it's one of the things that we tried to set up when we were there. It's hard to do it—more dialog between and among legislators because ultimately they're the ones who pass the laws.

We do raise it. I know Secretary Albright raised it when she went to Paris, and I was present in those conversations. I know that Secretary Powell has raised it since he has been in office, and that's important. Stay on the current course.

If the legislation goes through, if they actually start—am I interrupting something?

Senator SMITH. Between this panel and the next I'm going to have to go vote—

Mr. PARMLY. OK.

Senator SMITH [continuing]. So we'll finish up and then we'll impanel the next group and I'll be right back.

Mr. PARMLY. If they go through with actual implementation of some of this legislation—there were things on the books in some of the countries where we've seen hesitation in actually applying them. I think if we should keep up the decibel level—don't raise it, don't lower it—we continue to address our concern. When Congressman Gilman—when he was chairman of the House International Relations Committee and he came to Paris he raised these issues and you kept up the contact.

Senator SMITH. Yes.

Mr. PARMLY. And that's what you have to keep doing. And if they pass bad legislation you tell them, we think it's bad legislation—and we have and we will—but then you stay engaged.

All too often there's the reaction on the other side of, well, we're just going to break off and we're not going to talk to you about this. No. We're Americans. We care about these issues.

We especially care about these issues with friends. We're talking to you as a friend and hope that in the implementation that will have an effect.

Senator SMITH. I will admit to having intentionally been the provocateur at Secretary Powell's confirmation testimony when I raised this whole issue with him and posed a hypothetical of reciprocity. If visas are denied to American citizens to European countries, the practice of a first amendment right, then we would deny visas to their citizens who wish to come here to exercise any first amendment right of press or association or the like.

I'm not seriously proposing that. I want to make that clear, that if more of my colleagues even knew about these lists of dangerous churches, most of which are American faiths of long standing, there would be a lot of outrage. Most of them aren't—it's not on their radar screen. There would be pressure for some sort of sanction, and so I think your counsel to stay at the table and talking in a friendly tone is wise and frankly fruitful in my experience.

But I don't want to suggest that this could not be a regrettable lever to create differences between Europe and the United States, and it shouldn't be, but it could be.

Mr. PARMLY. There's some very good European investors here in Washington, and that would be a place to start. You wouldn't have to get on an airplane and you wouldn't have to rely on a good phone line. Delivering that message to senior diplomatic representatives here is one way to convey.

Senator SMITH. Michael, you've been very helpful and your testimony has been very appreciated. We'll admit all of it into the record and be thankful you brought it to us.

I will go and vote and come right back. I should not be more than 10 minutes, but we will stand in recess until then.

[Whereupon, a short recess was taken.]

Senator SMITH. Ladies and gentlemen, we'll reconvene this hearing and we will invite our next panel, Ms. Clark and Rabbi Baker, to come forward.

Elizabeth A. Clark, as mentioned before, is the associate director of the BYU International Center for Law and Religion Studies. She will be followed by Rabbi Andrew Baker, director of International Jewish Affairs of the American Jewish Committee.

Elizabeth, we'll start with you, and thank you for coming this many miles to share this testimony with us.

**STATEMENT OF ELIZABETH A. CLARK, ASSOCIATE DIRECTOR,
BYU INTERNATIONAL CENTER FOR LAW AND RELIGION
STUDIES, BRIGHAM YOUNG UNIVERSITY, PROVO, UT**

Ms. CLARK. Well, thank you. It's a pleasure to be here.

Senator SMITH. You can pull that mike closer to you.

Ms. CLARK. Does that help?

Senator SMITH. Perfect.

Ms. CLARK. Great.

Chairman Smith, distinguished guests, it's an honor to be here today, and I wanted to pass on the regrets of Professor Durham, who is not able to be here because of the change in scheduling of the hearing.

We would like to express our appreciation to address this extremely important topic and our gratitude for the work that you've done and the work that the State Department does in promoting religious liberty particularly in Western Europe. And at the outset we'd also like to emphasize, as Mr. Parmly did, that our testimony is being submitted in the spirit of contributing to constructive dialog with our European allies about how our shared Euro-American ideals of religious freedom could be better implemented on both sides of the Atlantic.

I will only touch on some of the issues in the written testimony which I would like to submit for the record.

Senator SMITH. We'll receive that without objection.

Ms. CLARK. Thank you.

We believe it's vital to speak candidly concerning certain recurring problems in Europe. These problems are important to address not because they're the most serious problems in the world but because in light of the strong traditions of religious freedom in the region the European problems are the ones that are most likely to be resolved.

And this is important not only to alleviate the suffering of the—real suffering of the members of smaller religious groups in Western Europe, but because what happens in Western Europe will have ripple effects elsewhere.

There's growing evidence that anti-cult attitudes in Western Europe are being actively spread to China and other countries of the former socialist bloc. Lawmakers and administrators there use Western Europe anti-cult initiatives as a justification for even harsher measures that have adverse effects on a wide range of small and legitimate religious groups. For example, there's been re-

cent press reports in the past weeks that the Chinese are watching very carefully what's happening in France with this legislation and discussion, and have possible intentions of following suit with similar legislation.

These hearings are significant not only for the possible impact they can have on Western Europe, but for the wider impact they can have in other countries that look to the West for models of how to implement religious freedom norms.

So with those considerations in mind we'd like to focus particular attention on two matters of great concern that you've already touched on today. These have been a matter of great concern to believers affected, human rights groups, religious organizations of all sizes and statures, both in Europe and the United States.

The first one, as you, Mr. Parmly mentioned, is the pending legislation in the French Senate. There are two primary elements of this legislation. They're both extremely problematic. First is the crime of so-called mental manipulation; mind control.

The proposal of this crime in the National Assembly last summer evoked substantial negative reaction resulting in delay of the passage of the legislation, but the changes that have been made are purely cosmetic. The title's been changed, but the problematic vague language has been retained virtually verbatim. The crime carries substantial fines and penalties and is vague enough to be applied to as you mentioned, Sunday School teachers, people posing any belief of religious doctrine that might be found by a third party to be harmful.

One violation of this is punishable with up to 3 years imprisonment, a fine of nearly \$400,000, and repeat offenses can lead to even stiffer sanctions.

The other primary element of this French law is that it allows dissolution of religious organizations that have the goal of creating or maintaining a state of physical or psychological subjugation. That's the language of the draft law, which as Mr. Parmly mentioned, no one knows quite precisely how to define. Because it's so vague and because the predicate offenses can be so minor this provision gives authorities vast discretion to persecute unpopular religious groups and to violate the religious freedom rights of organizational members not guilty of any wrongdoing whatsoever.

A second matter of concern in Europe is the disturbing trend to draw up official government lists of so-called cults and to establish governmental bias with the exclusive purpose of investigating newer and smaller religious organizations called sect observation centers commoly. Unreviewable sect lists have been created. France listed 172 so-called sects. Belgium has listed 189, including the Southern Baptists, Opus Dei, Seventh Day Adventist, as you mentioned, many others, many that have a long tradition both in Europe and in the United States.

These lists have had the effect of legitimating and encouraging discriminatory behavior both by the governments of these countries and by private individuals. This has substantial impact on individuals in those countries: loss of child custody, loss of employment, forbid them to participate in political parties, or in some cases even to be civil servants because of their religious beliefs.

There's not time here to expand on the range of problems these two major developments represent, but I'd like to conclude my brief remarks by listing a set of concrete recommendations concerning helpful steps that Congress might be able to take. The list is also at the conclusion of our written testimony in more detail. Let me just highlight a few of them.

First as has been mentioned by Mr. Parmly as well, the need to promote dialog—Congress should encourage the administration to facilitate dialog not only with governments but also to promote cooperation among non-governmental organizations to reach the public misconceptions that often underlie some of this problematic legislation. Dialog can also be encouraged through existing multilateral organizations. Congress can provide financial and moral support such as Helsinki Commission of Congress or the OSCE's Advisory Panel of Experts on Freedom of Religion and Belief.

Congress could also work to appropriate funds and give moral support for channels through the State Department, the Ambassador-at-Large's office to promote dialog and bring leaders and representatives of European countries here to discuss these issues.

Second main point would be to use existing resources more thoroughly, to request the State Department to gather additional information, to watch these sect observatories closely to see what effect they're having, as Mr. Parmly said, on the ground.

Congress could also request the U.S. Commission for International Religious Freedom to study events in Western Europe. Clearly they're starting to focus on that and they do have a mandate to consider and recommend options for Congress with respect to each country, the government of which is engaged in or tolerated violations of religious freedom. Certainly that includes some of our Western allies, much as we respect them.

And finally, I'd recommend that Congress make sure the administration is aware of your concerns and of the concerns of the American public. To highlight this, during the confirmation hearings for the newly nominated Ambassador to France, Mr. Howard Leach, during the hearings of the new Assistant Secretary of State for European Affairs. This will be an important way to express and underline the concern that we have and to make sure that effective steps are being taken.

Finally we would just like to sum up and say that firm but sensitive congressional action can contribute to the building of better relations in this area and the ability to ameliorate the very real plight of individual suffering from violations of religious freedom in Western Europe. Such actions are most likely to be effective if they open up opportunities for constructive dialog on how shared European American ideas of religious freedom can be better implemented on both sides of the Atlantic.

We are confident that long-term engagement and serious dialog on the implementation of religious freedom in Western Europe will help alleviate the current concerns. Thank you very much.

[The prepared statement of Professor Durham and Ms. Clark follows:]

PREPARED STATEMENT OF PROF. W. COLE DURHAM, JR. AND ELIZABETH A. CLARK*

BACKGROUND

The countries of Western Europe have long been our strongest allies not only in matters of military security, but also in terms of a shared commitment to the heritage of democracy and human rights. These are not only countries with which we have much to share but from which we have much to learn. The countries of Western Europe have all ratified the International Covenant on Civil and Political Rights which provides key protections of freedom of religion and belief.¹ They have also all ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms² and are all subject to the jurisdiction of the European Court of Human Rights in Strasbourg, which has developed an extensive and growing body of case law that is committed to the highest standards of freedom of religion.³ Particularly since the restructuring and streamlining of the Strasbourg Court since Protocol No. 11 went into effect on November 1, 1998,⁴ an increasing body of case law can be expected that will continue to provide strong protections in the field of freedom of religion or belief for the 800,000,000 people subject to the jurisdiction of the Court. West European countries are all also members of the Organization for Security and Cooperation in Europe, and accordingly have accepted the various detailed commitments to ensure freedom of religion and belief in that multilateral context.⁵ Given the distinctive historical traditions of the various West European countries, it is not surprising that they have differing systems for dealing with the interactions

*This statement is submitted by Professor Durham and Ms. Clark in their personal capacities, and is not made on behalf of any organizations or institutions with which they are affiliated.

¹International Covenant on Civil and Political Rights, G.A. Res. 2200A, U.N. GAOR, 21st Sess., Supp. No. 16, at 52, 55, U.N. Doc. A/6316 (1966), *reprinted in* 999 U.N.T.S. 171, 178 (1976) [hereinafter "ICCPR"]. The main provision of the ICCPR dealing with freedom of religion or belief is Article 18. But several other provisions also extend relevant protections. Notable among these are Article 2 (obligating State Parties to protect the rights guaranteed by the ICCPR "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"); Article 3 (equal rights); Article 4 (providing that no derogation is permissible from the right to freedom of religion or belief even in time of public emergency); Article 19 (freedom of expression); Article 21 (peaceable assembly); Article 22 (freedom of association); Article 24 (children's rights); Article 26 (equal protection); and Article 27 (protections for ethnic, religious or linguistic minorities). The U.N. Human Rights Committee, the body charged with interpreting the ICCPR under the terms thereof, has promulgated its General Comment No. 22(48) concerning Article 18 (U.N. Doc. CCPR/C/21/Rev. 1/Add. 4, 27 September 1993, *reprinted in* U.N. Doc. HRI/GEN/1/Rev.1 at 35 (1994)) [hereinafter "General Comment No. 22(48)"], which provides an important and detailed interpretation of the meaning of Article 18.

²[European] Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 222 (entered into force Sept. 3, 1953) [hereinafter "ECHR"]. The key provision addressing freedom of religion or belief is Article 9, but like the ICCPR, the ECHR contains many additional provisions that buttress and reinforce freedom of religion or belief.

³*See, e.g.,* Kokkinakis v. Greece, 17 E.H.R.R. 397 (1994) (ECtHR, May 25, 1993) (proselytizing); Hoffmann v. Austria, 17 E.H.R.R. (1994) (ECtHR, June 23, 1993) (depriving Jehovah's Witness of custody of child violated right to respect of family life); Manoussakis and Others v. Greece, 23 E.H.R.R. 387 (1997) (ECtHR, Sept. 26, 1996); Valsamis v. Greece, 24 E.H.R.R. 294 (1997) (ECtHR, Dec. 18, 1996) (coerced participation in parade contrary to pacifist beliefs); Tsirlis and Kouloumpas v. Greece, 25 E.H.R.R. 198 (1998) (ECtHR, May 29, 1997) (detention pending application for ministerial deferment from military held arbitrary); Canea Catholic Church v. Greece, 27 E.H.R.R. 521 (1999) (ECtHR, Dec. 16, 1997) (legal personality of Roman Catholic church protected); Larissis and Others v. Greece, 27 E.H.R.R. 329 (1999) (ECtHR, Feb. 24, 1998) (proselytizing); Buscarni and Others v. San Marino (ECtHR, Feb. 18, 1999) (non-believers not required to take religious oath); Serif v. Greece (ECtHR, Dec. 14, 1999) (state intervention in selection of Mufti violates religious freedom); Thlimmenos v. Greece (ECtHR, April 6, 2000) (conviction for violation of draft laws prompted by conscientious objection could not be used as ground to deny professional license); Jewish Liturgical Ass'n Cha-are Shalom Ve Tsedek v. France (ECtHR, June 27, 2000) (ultra Orthodox Jewish group denied special authorization for certifying food preparation); Hasan and Chaush v. Bulgaria (ECtHR, Oct. 26, 2000) (interference with internal organization of Muslim community and managing its affairs violates religious freedom).

⁴Information Document Issued by the Registrar of the European Court of Human Rights, Historical Background, Organisation and Procedure, <<http://www.echr.coe.int/fEngleddocs/infodocrevised2.htm#Transitional%20period>>, last visited April 28, 2001>.

⁵For a summary of the detailed commitments that have been made through OSCE processes, see [The Library of Congress in the United States has recently completed a study of religious freedom in a number of the major OSCE countries. Law Library, Library of Congress, Religious Liberty: The Legal Framework in Selected OSCE Countries (2000).]

of religion and the state,⁶ and while no country has a perfect record, all are committed to religious tolerance and respect for religious freedom.⁷

Given that the legal systems of Western Europe display a profound commitment to freedom, including religious freedom, we want to emphasize at the outset that our testimony today is being submitted in the spirit of contributing to constructive dialogue concerning how shared Euro-American ideals of religious freedom can be better implemented on both sides of the Atlantic. In this hearing, our testimony focuses on problematic issues in Western Europe, but we do not want to be understood as suggesting that there are no problems in the United States, or that the problems we identify are the most serious in the world. Clearly, as the report of the International Commission on Religious Freedom indicated in the report it promulgated yesterday,⁸ there are much more severe problems elsewhere.

Nonetheless, we believe it is vital to draw attention to certain recurring problems in Europe. We hope that doing so will lead to constructive dialogue that can lead to better understanding of the problems and hopefully, we hope, to measures that will help resolve them. The European problems are important to address not because they are necessarily the most serious problems in the world, but because European countries should be our natural allies for protecting freedom of conscience, freedom of religion, and freedom of belief.

This is important not only to alleviate the very real suffering of the members of smaller religious groups that are being seriously and adversely affected in a small number of Western European countries. Events and actions in these few Western European countries will have ripple effects elsewhere. There is growing evidence that anti-cult attitudes in France, for example, are being spread to countries of the former socialist bloc as well as to China. Lawmakers and administrators in such countries use anti-cult initiatives of the minority Western European states that advocate so-called “anti-sect” actions as justification for even harsher measures that have adverse impacts on a wide range of smaller but legitimate religious groups. These hearings are significant both for the possible impact they can have in Western Europe, and for the wider impact they can have in other countries that look to the West as models of how religious freedom norms should be implemented.

With these considerations in mind, we want to draw particular attention to two matters of great concern to affected believers, human rights workers, and religious organizations, both in Europe and in the United States, and then to alert the Congress to a number of other problematic developments.

First, there is pending legislation in the French Senate that targets minority religions and is widely expected to be adopted only two days from now. Despite criticism from French religious leaders,⁹ European human rights groups and activists,¹⁰ and scholars,¹¹ the U.S. State Department,¹² and then-Chairman of the House International Relations Committee,¹³ it now appears likely that this problematic legislation will pass.

⁶ See e.g., GERHARD ROBBERS (ed.), *STATE AND CHURCH IN THE EUROPEAN UNION* (1996).

⁷ See generally Kevin Boyle & Juliet Sheen (eds.), *Freedom of Religion and Belief: A World Report* 259-413 (1997).

⁸ Report of the United States Commission on International Religious Freedom (May 1, 2001), <[http://www.uscirf.org/reports/01May01Report Index.php3](http://www.uscirf.org/reports/01May01Report%20Index.php3)>, (last visited May 1, 2001).

⁹ See, e.g., Xavier Ternisien, *A Separate Crime of “Mental Manipulation Disappears From the Draft AntiCult Law, But The Substance of the Law Remains Unaltered,”* LE MONDE, (Jan. 12, 2001) (citing the president of the French Protestant Federation and representatives of larger religious as criticizing the law as “dangerous” and capable of generating “uncontrolled excesses.”).

¹⁰ See, e.g., The reaction of the European-wide Helsinki Federation, which has been very critical of French actions; the OSCE News Release (June 8, 1999) <<http://www.csce.gov/press—csce.cfm?press—id=118>> (last visited April 28, 2001) (describing criticism of French law by Dr. Willy Fautré of Human Rights Without Frontiers; the experience of the Rev. Louis DeMeo of Grace Church, Nimes, France; and speeches and other writings of Alain Garay, a French human rights attorney).

¹¹ See *Discrimination on the Basis of Religion and Belief in Western Europe: Testimony Before the House Comm. on Int’l Relations, 106th Cong.*, (visited April 28, 2001) <<http://www.house.gov/international—relations/full/relminor/gunn.htm>> (statement of Dr. T. Jeremy Gunn) [hereinafter *Gunn Testimony*].

¹² U.S. State Department, 2000 Annual Report on International Religious Freedom: France, (available online at <<http://www.state.gov/www/globalhuman—rights/irf/irf—rpt/irf—france.html>>) (Sept. 5, 2000) (hereinafter “2000 France Report”); Testimony of Letter of Secretary of State Madeleine K. Albright to Joseph Griebowski (Jan. 2, 2001); U.S. House International Relations Press Release (June 14, 2001) (visited April 28, 2001) <<http://www.house.gov/international—relations/press/106sec/62prjun14b.html>> (noting criticisms in letter by U.S. Ambassador to France Rohatyn).

¹³ See, e.g., Testimony of Congressman Benjamin A. Gilman before the House International Relations Committee (June 14, 2000).

Second, two European parliaments (Belgium and France) have prepared, on a unilateral basis and without any input of objective scholars or the groups themselves, lists of so-called “dangerous sects.” These parliamentary lists have, in turn, been used by government officials (both local and national) to discriminate against the groups.¹⁴ Government offices have since been established in Austria, Belgium, and France with the exclusive purpose of investigating newer and smaller religious organizations. This trend has been encouraged by the Parliamentary Assembly of the Council of Europe, which passed its Recommendation 1412 regarding “illegal Activities of Sects” on June 22, 1999¹⁵—although countries such as France have failed to heed the cautions articulated in Recommendation 1412. This Recommendation urged, among other things, that European governments should “set up or support independent national or regional information centres on groups of a religious, esoteric or spiritual nature.”¹⁶ The Recommendation as ultimately adopted, nevertheless stressed that states should “encourage an approach to religious groups that will bring about understanding, tolerance, dialogue and resolution of conflicts.”¹⁷ If the information centers that are emerging operate in this spirit, and function in a neutral and objective manner, they can contribute in positive ways to a climate of tolerance and understanding. The worry is that at least some may function more in the spirit of a number of the parliamentary inquiry commissions of recent years, which have often been far from neutral, objective and fair, and whose unreviewable “sect lists” have had the effect in fact of legitimating and encouraging discriminatory behavior.

I. FRANCE

A. Pending Legislation

The most pressing concern to religious freedom in Western Europe is legislation currently pending in the French Senate.¹⁸ Last June, the National Assembly unanimously adopted a bill that would (1) criminalize so-called “mental manipulation” by so-called “sects” or “cults”; (2) authorize dissolution of religious groups if one of their leaders committed two or more serious crimes; and (3) penalize attempts to reconstitute dissolved “sects” or “cults” under a different name.

There was a considerable outcry from human rights groups and religious organizations, which resulted in Senate action being put on hold to give the matter further consideration. This legislation has been revised slightly during the past few months

¹⁴The Swedish Parliament, which also issued a report, criticized the other reports for having shown a lack of objectivity in their analysis.

¹⁵*Illegal Activities of Sects*, Eur. Consult. Ass., 18th Sess., Recommendation No. 1412 (1999) (visited Mar. 16, 2000) <<http://stars.coe.fr/ta/ta99/erec1412.htm>> [hereinafter Recommendation No. 1412].

¹⁶*Id.* More specifically, Recommendation No. 1412 called on COE member states to take the following actions:

(i) where necessary, to set up or support independent national or regional information centres on groups of a religious, esoteric or spiritual nature; (ii) to include information on the history and philosophy of important schools of thought and of religion in general school curricula; (iii) to use the normal procedures of criminal and civil law against illegal practices carried out in the name of groups of a religious, esoteric or spiritual nature; (iv) to ensure that legislation on the obligation to enroll children at school is rigorously applied, and that appropriate authorities intervene in the event of non-compliance; (v) where necessary, to encourage the setting-up of non-governmental organisations for the victims, or the families of victims, of religious, esoteric or spiritual groups, particularly in eastern and central European countries; (vi) to encourage an approach to religious groups which will bring about understanding, tolerance, dialogue and resolution of conflicts; (vii) to take firm steps against any action which is discriminatory or which marginalises [sic] religious or spiritual minority groups.

The Assembly then recommended that the Committee of Ministers:

(i) . . . provide for specific action to set up information centres on groups of a religious, esoteric or spiritual nature in the countries of central and eastern Europe in its aid programmes for those countries; [and] (ii) set up a European observatory on groups of a religious, esoteric or spiritual nature to make it easier for national centres to exchange information.

¹⁷*Id.*

¹⁸Senat, Proposed Law No. 131, Dec. 14, 1999, “Proposition de loi tendant à renforcer le dispositif pénal à l’encontre des associations ou groupements constituant, par leurs agissements délictueux, un trouble à l’ordre public ou un péril majeur pour la personne humaine” [“A Law Proposal Aimed at Reinforcing the Criminal System Against Associations or Groups that Constitute, by their Criminal Schemes, a Threat to the Public Order or a Major Danger to Human Dignity”] [hereinafter Senate Proposed Law] (visited April 28, 2001) <<http://www.senat.fr/leg/tas99-52.html>>. For an in-depth analysis of the provisions of the law, see Hannah Clayson Smith, Comment, Liberté, Egalité, et Fraternité at Risk for New Religious Movements in France, 2001 BYU L.Rev. 1099.

and is scheduled for a vote two days from today, on May 3. It is currently expected to be adopted—though the opposition to it continues to grow. The revisions in the proposed law are primarily cosmetic, such as changing the title of the crime of “mental manipulation” to “abuse of a person’s state of weakness”¹⁹ and reclassifying the offense within the overall structure of the French criminal code. The vague wording of the substantive offense is essentially unchanged, and remains a serious threat to religious liberty in France. As recently as last week, 50 members of the parliament of the Council of Europe wrote to the French Senate, urging it to stop the vote on this draft law, because of its potential to create religious discrimination in France.²⁰

1. Provisions Permitting Civil Dissolution of Religious Groups

A key element of the law is a vague provision that describes which groups can be legally dissolved. All that is necessary is that an organization meet two criteria:

- (1) it pursues activities having the goal or result of creating, maintaining, or exploiting a state of physical or psychological subjugation, and any of various listed penal sanctions have been imposed more than once against the entity or its actual or de facto leaders.²¹

The fundamental problems with this provision are its inherent vagueness, which ultimately give prosecutors wide latitude to pursue disfavored groups, and that it imposes sanctions on the innocent. Innocent members of a group will be denied the ability to worship according to their own conscience, just because a leading member of the group did something wrong. This is inconsistent with all our normal axioms about ascribing blame for conduct to the individuals actually at fault, a notion as deeply ingrained in French legal tradition as in our own.

Further, the list of predicate acts casts an extremely broad net. This would technically allow a religious group to be dissolved if a leading figure were convicted of two or more of the following acts:

- being at fault in a traffic accident that causes bodily injury;
- violating a data privacy law by having a file on a member without adequate disclosure;
- failing to provide immunizations or blood transfusions, constituting child neglect;
- soliciting funds on grounds of religiously based beliefs that others might deem fraudulent;
- malicious telephone calls or verbal assaults repeated with the intent to disturb the tranquility of another; or
- recommending vitamin therapy, if this were construed as illegal practice of medicine.²²

While this could theoretically apply to any religious group, given the fact that this was legislation explicitly aimed at “sects” or “cults” it is likely to be applied in a discriminatory manner to newer and smaller religious groups.

The law not only allows civil dissolution, but also extends criminal liability to corporations that meet the conditions for dissolution.²³ One possible penalty is the permanent prohibition of specific minority religious activities. In addition, the draft law would impose criminal sanctions on individuals who seek to recreate or reorganize a dissolved religious group. Attempts at reorganizing are punishable by up to a three-year jail sentence and a 300,000 FF (approximately \$40,000) fine for the first offense and a five-year jail sentence and a 500,000 FF (approximately \$70,000) fine for repeat offenses.²⁴

The draft law’s vague and harsh provisions for civil dissolution violate a variety of international standards. Freedom to manifest one’s religion or belief in community with others,²⁵ which is guaranteed by all the major international instruments,

¹⁹Senate Proposed Law, ch. 5. See also, e.g., Xavier Ternisien, *A Separate Crime of “Mental Manipulation” Disappears From the Draft Anti-Cult Law, But The Substance of the Law Remains Unaltered*, LE MONDE, (Jan 12, 2001).

²⁰Council of Europe: *France Accused of “Religious Discrimination,”* LA CROIX, April 27, 2001.

²¹Senate Proposed Law, ch. 1.

²²Senate Proposed Law ch. 1 (listing predicate offenses).

²³Senate Proposed Law ch. 2.

²⁴Senate Proposed Law ch. 2.

²⁵See, e.g., 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, arts. 6 (a) and (b); ICCPR, art. 18; European Convention on Human Rights art. 9.

is substantially diminished if reasonable access to a legal entity is impossible.²⁶ The violation is particularly egregious in this case, as government elimination of a religious entity would be unrelated to the actions of the group itself. The law penalizes the group for its beliefs, taken together with the actions of one individual leader. The law is also inconsistent with recent European Court decisions on freedom of association, which recognize that the right to have a legal entity as an integral part of the right to freedom of association.²⁷ The fact that a leader may have done something illegal—regardless of the religion—does not deprive the rest of the group of the right to associate. The successful prosecution of a Catholic priest or a Protestant pastor for an offense should not lead to the dissolution of their churches. Nor should it for groups that the government disparagingly (and often ignorantly) calls “sects” or “cults.”

By establishing and penalizing a separate class of religions, based on the activities of one of their members and the group’s belief, the draft law also violates the nondiscrimination principles of the 1981 U.N. Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,²⁸ the ICCPR,²⁹ the ECHR,³⁰ and the Vienna Concluding Document.³¹ These guarantees are designed to ensure an “effective equality”³² and prohibit discriminatory purpose or effect based on religious preference. This law does precisely what Article 18 of the ICCPR was designed to prevent—government establishment of a separate category of religious organizations based on their beliefs.³³

Additional violations of international norms and legal principles could be noted.³⁴

2. “Mental Manipulation” Provisions

Many, even among traditional faiths, are deeply concerned about the pending legislation’s attempt to criminalize “mental manipulation” because of its inherent vagueness. Although the description “mental manipulation” has been changed to the seemingly more neutral “abuse of a person’s state of weakness,” the text of the crime is unchanged.³⁵ The law essentially allows the government to prosecute any group who creates a state of physical or psychological dependency such that the follower engages in an act or abstains from an act—against his will or not—that results in significant detriment to the follower. The Catholics have even expressed concern that the Catholic Church will be prosecuted for the strict conditions under which Carmelite nuns live. Clearly leaders of Jehovah’s Witnesses, who encourage their members to reject blood transfusions, and Christian Scientists, who teach a reliance on faith healing, could easily fall under the ambit of the law.

Furthermore, the crime of “abuse of a person’s state of weakness,” is vague enough to potentially cover any religious activity such as proselytizing or religious

²⁶ See Cole Durham, OSCE/ODIHR Background Paper 1999/4, *Freedom of Religion or Belief: Laws Affecting the Structuring of Religious Communities*, (Sept. 1999) (available on-line at http://www.osce.org/odihr/docs/i4_index.htm) (last visited April 28, 2001).

²⁷ *United Communist Party of Turkey v. Turkey* (European Court of Human Rights, Decision of 30 January 1998); *Sidiropoulos & Others v. Greece* (European Court of Human Rights, Decision of 10 July 1998). In *Sidiropoulos* the Court stated categorically that “the right to form an association is an inherent part” of the right to freedom of association and that

citizens should be able to form a legal entity in order to act collectively in a field of mutual interest is *one of the most important aspects of the right to freedom of association, without which the right would be deprived of any meaning*. The way in which national legislation enshrines this freedom and its practical application by the authorities reveal the state of democracy in the country concerned. Certainly States have a right to satisfy themselves that an association’s aim and activities are in conformity with the rules laid down in legislation, *but they must do so in a manner compatible with their obligations under the Convention and subject to review by the Convention institutions*.

Religious organizations constitute a special form of association, entitled if anything to heightened associational protections. The mere fact that an individual—even a prominent member of a group—has been guilty of criminal offenses does not constitute adequate grounds to deprive the rest of the members of the group of the right to associate. There is no question that the individual in question may be subject to criminal sanctions, but visiting sanctions on the group as a whole is not proportionate.

²⁸ 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, art. 2.

²⁹ ICCPR art. 18.

³⁰ ECHR, art. 9.

³¹ Vienna Concluding Document art. 16(a).

³² Vienna Concluding Document.

³³ ICCPR Art. 18.

³⁴ See Smith, *supra* note, at 1130-1136.

³⁵ Senate Proposed Law ch. 5; see also e.g., Xavier Ternisien, *A Separate Crime of “Mental Manipulation” Disappears From the Draft Anti-Cult Law, But The Substance of the Law Remains Unaltered*, LE MONDE, (Jan. 12, 2001).

education. After all, most education and persuasion, whether secular or religious, could be described as “techniques designed to alter someone’s judgment.”³⁶

The penalties associated with this crime are stiff. One violation is punishable with up to three years imprisonment and a fine of up to 2,500,000 FF (nearly \$400,000). The law explicitly states that religious associations themselves can be penalized under this provision.³⁷ Heightened punishment is provided for leaders of religious groups, who can incur fines of up to 5,000,000 FF (nearly \$800,000) and serve up to 5 years in prison.³⁸ Any natural person convicted of this crime can, in addition, be subject to supplemental penalties, including (1) the denial of civic, civil, and family rights, (2) denial of the right to exercise a public function or engage in professional or social activity that led to the infraction for up to 5 years; (3) the closure for a period of 5 years or more of the entity’s establishments used in committing the offense; and (4) the confiscation of property used to commit the offense.³⁹

Given the combination of available penalties, this vaguely worded offense could easily be used to bankrupt religious organizations and individuals, imprison believers and their leaders, and deny individuals rights such as child custody merely for persuading other believers to follow practices that a state judge determines to be harmful to that individual—even if the practices were freely accepted.

Criminalizing religious persuasion as “mental manipulation,” or “abuse of a person’s state of weakness” directly attacks the religious rights protected under international norms. Most directly, this would endanger rights of teaching and dissemination of religious information, protected in the 1981 Declaration.⁴⁰ Using criminal norms to harshly punish controversial religious practices also violates Article 18.2 of the ICCPR, which prohibits government coercion in the religious marketplace. The theory behind the crime, that religious leaders can engage in mental control, or “brainwashing,” has been discredited by the American Psychological Association and international scholars.⁴¹

Governments clearly have a legitimate interest in protecting against fraud or abuse. It is important to remember, however, that those interests are already embodied in existing criminal codes. As the Council of Europe determined, existing criminal law should be sufficient to deal with any harmful activities associated with new religious movements.⁴² Creating additional, vaguely worded crimes geared specifically towards unpopular religious movements is nothing more than religious discrimination. Not only is it discrimination, but it is the sort of discrimination explicitly forbidden by Article 18 of the ICCPR. As the United Nations Human Rights Committee explained in its authoritative interpretation of Article 18, discrimination is particularly suspect when its targets “are newly established, or represent religious minorities that may be the subject of hostility by a predominant religious community.”⁴³

Another troubling sign, however, is that French lawmakers are seeking to export their peculiar and discriminatory anti-sect stance, particularly to Eastern Europe and China.^{44 45} In fact, there are already reports that Hong Kong’s Chief Executive is looking to the French legislation as a model for a law to ban the Falun Gong movement.⁴⁶

Other Recent French Government Initiatives

The current draft law is the result of a long-running self-proclaimed “fight against cults” led by some members of the French parliament. In recent years, the French

³⁶ Senate Proposed Law ch. 5.

³⁷ Senate Proposed Law ch. 5.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ 1981 U.N. Declaration, arts. 6 (d) and (e).

⁴¹ See *Religious Liberty in Western Europe: Deterioration of Religious Liberty in Europe Briefing Before the Comm’n on Sec. and Cooperation in Europe of the United States Congress*, 105th Cong. (1998) (statement of Dr. Massimo Introvigne, Managing Director, Center for Studies of New Religions (“CESNUR”)); James T. Richardson, “Brainwashing” Claims and Minority Religions Outside the United States: Cultural Diffusion of a Questionable Concept in the Legal Arena, 1996 BYU L. REV. 873.

⁴² See *supra* note.

⁴³ U.N. Hum. Rts. Comm. General Comment No. 22.

⁴⁴ Gunn Testimony (reporting that the Interministerial Mission Against Cults is spending one-third of its time promoting the anti-sect message outside of France); Fautre et al, *supra* note. See *Innocents Abroad: French Anti-Cultists, Mission Support China’s Anti-Cult Campaign*, (visited April 30, 2001) <<http://www.cesnur.org/2001/jan30.htm>>.

⁴⁵ 1998 McCabe Statement.

⁴⁶ Carmen Cheung, *French law basis for likely move to outlaw sect*, HONG KONG IMAIL (Apr. 27, 2001); Cliff Biddle, *SAR eyes outcome of French bill*, SOUTH CHINA MORNING POST (Apr. 6, 2001).

parliament and government have issued a number of reports⁴⁷ that scholars of religion have criticized as failing to meet even minimum standards of objectivity or scholarship.⁴⁸ In the 1980s, two reports on sects were issued, which essentially concluded that normal criminal laws were sufficient to address problems posed by sects.⁴⁹ Most experts see this as the appropriate result; laws that specifically target religious groups are inherently discriminatory, dangerous, and tend to violate both international human rights standards and fundamental canons of criminal justice.

In the 1990's, following the Solar Temple suicides in Switzerland and France, a new wave of anti-cult reaction occurred. In 1995, a Parliamentary Inquiry Commission published a report that listed 172 groups as cults, without explaining the criteria for inclusion or giving the groups an opportunity to respond.⁵⁰ Members of these groups and other groups that are perceived as sects, regardless of whether they are actually on the list, have reported an increase in official and unofficial discrimination, including police surveillance, loss of child custody or visitation rights, employment discrimination, and unwillingness of government officials and private landlords to rent property or provide zoning permits for new church buildings.⁵¹ According to the International Helsinki Federation.

Minority religions have been publicly marginalised and stigmatised, and there have been attempts to hinder their activities—for example, through denying them access to public halls for their meetings or requiring them to pay higher rent. Authorities have scrutinised their management, and children of minority religious groups have been stigmatised as “cult members” in their schools and neighbourhoods.⁵²

Specific examples are legion. For example, the International Society for Krishna Consciousness (ISKCON) runs a charitable food distribution program called Food for Life. When French ISKCON members applied to receive vegetables from Banque Alimentaire, a food bank organization that collects vegetables from the market and distributes them to approximately 100 other charities, they were denied based solely on the fact that ISKCON was on the list of sects.⁵³ The director of a prison in Bapaume denied his prisoners access to magazines published by the Jehovah's Witnesses, giving as a reason “the sectarian character of the congregation, recognized by the parliamentary commission.”⁵⁴ Jehovah's Witnesses, along with the Church of Scientology and the Institut Théologique de Nîmes, a Protestant Bible college, have all been subjected to extensive and harassing audits, which have forced several churches of the Church of Scientology into bankruptcy.⁵⁵

Being a member of a listed sect has had significant direct repercussions for individual members as well. A Scientologist engineer working in a French nuclear power plant, owned by the French national electric company, was refused a key po-

⁴⁷ Assemblée Nationale, Report No. 1687, June 10, 1999, “Rapport fait au nom de la commission d'enquête sur la situation financière, patrimoniale et fiscale des sectes, ainsi que sur leurs activités économiques et leurs relations avec les milieux économiques et financiers” [“Report by the Inquiry Commission on the Financial Situation of Sects, as well as their Economic Activities and their Relations with the Economic and Financial Realms”] [hereinafter *Finances of Sects Report*] (visited Sept. 20, 2000) <<http://www.assemblee-nationale.fr/2/2dossiers.html>>; Assemblée Nationale, Report No. 2468, Dec. 22, 1995, “Rapport fait au nom de la commission d'enquête sur les sectes” [“Report by the Inquiry Commission on Sects”] [hereinafter *Sects in France Report*] (visited Sept. 20, 2000) <<http://www.assemblee-nationale.fr/2/2dossiers.html>>.

⁴⁸ See Willy Fautre *et al.*, *The Sect Issue in the European Francophone Sphere*, in FACILITATING FREEDOM OF RELIGION OR BELIEF: A DESKBOOK (Kluwer Publishing, forthcoming 2001); Jean Baubérrot, *Le rapport de la commission parlementaire sur les sectes*, in POUR EN FINIR AVEC LES SECTES. LE DÉBAT SUR LE RAPPORT DE COMMISSIONS PARLEMENTAIRES (Massimo Introvigne & J. Gordon Melton, eds., Paris and Milan: Cesnur-DiGiovanni 1996).

⁴⁹ For a description of these reports and a more thorough general background, see 2000 France Report, *supra* note __; Smith, *supra* note __, at 1112, 1099-1117; Fautre, *supra* note __.

⁵⁰ See *Sects in France Report*, *supra* note __.

⁵¹ Extensive examples are given in Fautre, *supra* note __, nn. 53-64; *Jehovah's Witnesses in France: Deterioration of Religious Liberty in Europe Briefing Before the Comm'n on Sec. and Cooperation in Europe of the United States Congress*, 105th Cong. (1998) (statement of James M. McCabe, Associate General Counsel, Watch Tower Bible & Tract Society of Pennsylvania) [hereinafter *1998 McCabe Statement*]; *Religious Freedom in Western Europe: Religious Minorities and Growing Government Intolerance Hearing Before the Comm'n on Sec. and Cooperation in Europe of the United States Congress*, 106th Cong. (1999) (statement of Willy Fautré, Chairman, Human Rights Without Frontiers).

⁵² The International Helsinki Federation for Human Rights, 1999 Annual Report, France. <<http://www.ihfhr.org/reports/ar99/ar99fra.htm>>.

⁵³ Letter from ISKCON to authors, (May 27, 2001).

⁵⁴ Fautre *et al.*, *supra* note __; see Alain Garay, *Discrimination and Violations of Freedom of Conscience of Prisoners in France*, 2 RELIGION-STAAT-GESELLSCHAFT (2000).

⁵⁵ Testimony of Robert A. Seiple before the House International Relations Committee, U.S. House of Representatives (June 14, 2000).

sition and transferred to a non-nuclear department on the basis of an anonymous letter campaign. He was accused of being a tool of an alleged attempt by the Church of Scientology to infiltrate the nuclear plant.⁵⁶ Similarly, when it became public that a principal of a school in Chomerac was a member of a listed sect, a number of parents withdrew their children from the school and requested an inquiry by the Ministry of Education. An official inquiry took place, but found no evidence of negligence or even of proselytism.⁵⁷

Once an organization is listed, it becomes virtually impossible for it to regain its reputation. For example, psychotherapist Bernard Lempert was the founder a small group, *L'arbre du milieu*, which worked with physically and sexually abused children. After the group was listed by the French parliamentary committee, Bernard Lempert lost his patients, reputation, and funding. After two years, Mr. Lempert managed to prove in court that the source of the accusation leading to the listing of the group was an influential former patient who was merely trying to settle a personal score. Eventually, even the author of the parliamentary report recognized that Mr. Lempert's group was not a "dangerous sect," but no mechanism exists to remove sects from the list.⁵⁸

In 1996, the French Prime Minister established an interministerial working group called the "Observatory on Cults," which recommended anti-cult legislation. The Observatory was replaced by the Interministerial Commission to Fight Against Cults ("MILS") in 1998, which has been issuing reports and coordinating a number of intergovernmental activities specifically targeting sects. A report on Finances of Cults was published by a Parliamentary Inquiry Commission in 1999.

Sponsors of the bill that is currently under consideration in the French Senate also have been involved in active efforts to promote similar "anti-cult" legislation in Eastern Europe and China. Human rights advocates are especially concerned that the spread of this type of legislation to Eastern European countries, which lack France's traditions and protections of a trained judiciary, would be especially problematic and limiting of religious freedom.

The U.S. State Department has repeatedly expressed concern over France's stigmatization of legitimate expressions of religious faith as "sects" or "cults," and has criticized the pending legislation as violating international and European norms of religious freedom.

A recent positive sign that some French institutional protections may assist minority religions was the June 2000 decision of the French *Conseil d'Etat*, France's highest administrative court, determining that two congregations of Jehovah's Witnesses could be recognized as religious organizations and thus exempt from taxation as a business.⁵⁹ But, on the other hand, other French tax authorities had retroactively imposed a tax of 60% on all donations received during the period from January 1, 1993 to August 31, 1996, even though they determined that the Jehovah's Witnesses had engaged in no commercial activity.⁶⁰ Including penalties and interest, the Jehovah's Witnesses were accused of owing over 300 million French francs (approximately \$50 million).⁶¹

II. BELGIUM

Much like France, Belgium has experienced a wave of anti-cult sentiment after the Solar Temple suicides. In 1997, a parliamentary commission issued a report listing 189 "sects," including Southern Baptists, Opus Dei, Jehovah's Witnesses, Quakers, the YWCA, (but interestingly enough, not the YMCA), a Hasidic Jewish community, and Seventh-Day Adventists.⁶² The Belgian parliament adopted the commission's recommendations and published the report, although they did not formally

⁵⁶ Gravelines: Malaise à la centrale nucléaire. Un scientologue devait piloter deux réacteurs. *Il sera muté*, LE PARISIEN, DEC. 14, 1998.

⁵⁷ Fautre et al., *supra* note

⁵⁸ See Fautre et al., citing *L'honneur perdu du psy de Landerneau*, LIBERATION, April 1, 1996, and *Deux ans pour éteindre le bûcher. La justice a blanchi Bernard Lempert, accusé d'être un gourou*, LIBERATION, Oct. 25, 1998.

⁵⁹ 1998 McCabe Statement.

⁶⁰ *Jehovah's Witnesses in France Hit with 50 Million Dollar Tax Bill*, AGENCE FRANCE PRESSE, June 29, 1998 (reporting that this was the first time that the fiscal reform of 1992 had been applied to a religious organization).

⁶¹ 1998 McCabe Statement.

⁶² Enquête parlementaire visant à élaborer une politique en vue de lutter contre les pratiques illégales des sectes et le danger qu'elles représentent pour la société et pour les personnes, particulièrement les mineurs d'âge. Rapport fait au nom de la commission d'enquête par mm. Duquesne et Willems, Documents parlementaires Chambre 1996-97, nos 313/7 (partie I) et 313/8 (partie II).

adopt the list. The methodology and results of the parliamentary commission have been criticized by leading academics.⁶³

In 1998, following up on the parliamentary commission's recommendations, parliament passed legislation creating a "Center for Information and Advice on Harmful Sectarian Organizations."⁶⁴ The Center, which became operational in the fall of 2000, was authorized to propose policy or legislation regarding sects and coordinate with the administrative agency that was also created to deal with sects in 1998. The Center is responsible to provide information to the public upon request, and is required by law to avoid presenting information in the form of lists or systematic statements about harmful sectarian organizations. The Center remains fairly new. It is hoped that it will carry out its informational activities in a neutral and objective way that among other things will allow criticized groups to have a right of hearing and reply. There are some very positive signs that the work of the commission will be carried out with some objectivity, but its existence continues to raise concerns.

Implementing another recommendation of the parliamentary report, some local communities have sponsored information campaigns to "educate" the public about harmful sects. Although the publications refer to "harmful sects," they in fact identify many groups about which there is no evidence that they have engaged in any harmful activities whatsoever. In March 1999, one division of the government launched a campaign, "Gurus Beware!" and targeted 20 of the groups listed in the 1997 commission report.⁶⁵ In April 1999, the distribution of literature was enjoined by a court, based on one group's arguments that the brochure was defamatory.⁶⁶ On appeal, however, the government was allowed to resume distribution of the brochure.⁶⁷

The original list created by the parliamentary commission and published by parliament has also led to numerous reports of religious discrimination. Members of listed groups have experienced discrimination in employment and schools, police surveillance, inability to rent facilities for meetings, and loss of child custody and visitation rights.⁶⁸

Discrimination is official and often blatant. According to a member of the Belgian sect observatory, certain Belgian municipalities have required all civil servants to attest that they do not belong to a listed sect.⁶⁹ The Belgian tax department has denied a house of worship of the group Sukhyo Mahikari an exemption from property taxes based solely on the fact that they are on the sect list.⁷⁰ Without any warning, Belgian state security shut down and barricaded a public meeting and dance display put on at the Sahaja Yoga movement, and barred future meetings of any kind, claiming that the group was attempting to infiltrate the town's dance center and that their covert purpose was to talk about their "guru."⁷¹

⁶³ See, e.g., Rik Torfs, *Church Autonomy in Belgium*, in CHURCH AUTONOMY (Gerhard Robbers, ed., forthcoming 2001); Fautre et al., *supra* note ____; CSCE News Release (June 8, 1999) <http://www.csce.gov/press—csce.cfm?press—id=118> (last visited April 28, 2001) (describing criticism of Belgian commission); Massimo Introvigne, *Le retour de jacobins*, (visited April 28, 2001) <http://www.cesnur.org/testi/Belgique.htm>.

⁶⁴ Loi 2 juin 1998 portant création d'un Centre d'information et d'avis sur les organisations sectaires nuisibles et d'une Cellule administrative de coordination de la lutte contre les organisations sectaires nuisibles, *Moniteur beige* 25 November 1998; Arrêté royal 8 novembre 1998 fixant la composition, le fonctionnement et l'organisation de la Cellule administrative de coordination de la lutte contre les organisations sectaires nuisibles, *Moniteur beige* 9 December 1998.

⁶⁵ Fautre et al., *supra* note ____; 2000 Annual State Department Report on Religious Freedom: Belgium (visited April 28, 2001) <http://www.state.gov/www/global/human—rights/irf/irf—rpt/irf—belgium.html>.

⁶⁶ Summary Judgement Tribunal of Brussels 23 April 1999, *Algemeen Juridisch Tijdschrift* 1999-2000, 94. This judgement was reformed by the Court of Appeal: Brussels No. 1999/KR/175 R.No. 2000/290, 20 January 2000, not published.

⁶⁷ Fautre et al., *supra* note ____.

⁶⁸ See, e.g., Fautre et al., *supra* note _____. Even individuals who are not members of listed groups have suffered discrimination as a result of unfounded accusations that they do belong to listed groups. See, e.g., Frédéric Delepierre, *Je ne suis pas membre de l'Opus Dei*, *LE SOIR*, October 31, 1998.

⁶⁹ Fautre et al., *supra* note _____, citing Louis-Léon Christians, *Liberté d'opinion en droit européen: observations belges (II)—Les limitations*, 58 CONSCIENCE ET LIBERTÉ 10 n.1 (1999).

⁷⁰ Fautre et al., *supra* note ____ (noting that the group is officially registered as a religious organization in Spain).

⁷¹ Fautre et al., *supra* note ____.

The practical effects of such discrimination can be devastating to individuals. Some courts have denied sect members custody and visitation rights;⁷² others have stipulated in custody agreements that noncustodial Jehovah's Witness parents cannot expose their children to their religious teachings or lifestyle.⁷³

In December 1998, the Belgian parliament formally required Belgian State Security to monitor "harmful sectarian organizations," defined as "any religious or philosophical group that, through its organization or practices, engages in activities that are illegal, injurious, or harmful to individuals or society," as potential threats to the internal security of the country. While no government wants to have harmful groups operating in its midst, such vaguely worded provisions give a great deal of latitude to prosecutors and other officials to attack unpopular religions and groups.

III. AUSTRIA

The Austrian government has also engaged in an information campaign against "sects," and has established an independent Federal Office on the Sect Question.

In September 1999, the Ministry for Social Security and Generations issued a brochure with hostile descriptions of non-recognized religions and the Jehovah's Witnesses, even though they have been recognized with the official status of a "confessional community." This activity was condemned last year by the House International Relations Committee. The Ministry for Social Security and Generations has also announced plans to train "specialists" among teachers and youth leaders on the dangers of sects, and to create an interministerial working group to develop additional measure to protect citizens from "the damaging influence of sects, cults, and esoteric movements."

Government and individual discrimination against minority and nonrecognized religious groups has been reported. For example, in 1999, the Austrian People's party, which became a member of the coalition government in 2000, announced that party membership is incompatible with being a member of a "sect."

Austrian law also de facto discriminates against new religious movements. Although religious groups can receive legal entity status as a "confessional community" with a 6-month waiting period, a group must undergo a 10 years observation period in order to become an officially recognized religious society. Only officially recognized religious societies have the right to function in schools, prisons, the military and other public sectors, to register births and marriages, and to participate in the government state-collected taxation program. This model has recently been followed by the Czech Republic in its draft legislation on religious associations.

More generally, legislation and the creation of information centers in Western Europe are significant in that they are used to legitimate parallel developments in Eastern Europe. In that context, they may have consequences that are substantially more harsh for smaller religious groups.

IV. GERMANY

Germany, the remaining EU member state that has officially reacted against new religious movements, set up a parliamentary commission in 1996 to investigate "so-called sects and psychogroups." It published a report in 1998, but no lists were published and no permanent sect observatory was created. The report raised doubts on the validity of definitions of "cults" or "sects," as well as the concept of "brainwashing," but did support continued surveillance of the Church of Scientology.

Several German states have engaged in information campaigns against new religious movements. While some of these are factual and relatively unbiased, others make generalized and unsupported allegations against new religious movements as dangerous sects. In particular, these pamphlets have targeted Scientology, alleging dangers to the political and economic system and the health and well-being of individuals.

The Church of Scientology has also been under governmental observation and its members have been subject to official governmental discrimination. Some local, state, and federal government agencies and business require job applicants and bidders on contracts to sign a declaration that they are not affiliated with the teachings of L. Ron Hubbard. Most major political parties also prohibit membership by Scientologists.

⁷²Fautre et al., *supra* note ____ (citing *Ik wil en mijn kind en mijn geloofbehouden*, DE STANDAARD AUG. 14, 15, 16, 1998, at 31).

⁷³U.S. State Department, 2000 Annual Report on International Religious Freedom: Belgium, (available online at <http://www.state.gov/www/global/humanrights/irf/irf_rpt/irf_belgium.html>) (Sept. 5, 2000) (hereinafter "2000 Belgium Report").

Although the situation regarding the Federal Government in Germany has improved during the past two years, ongoing problems remain and it is appropriate for human rights groups and the U.S. government to continue to be sensitive to such problems if and when they are documented.

V. SPAIN/ITALY/AGREEMENT SYSTEMS

Spain, Italy and several other European countries have what might be described as an “agreement” system for structuring relations with many of the religious groups in their respective countries. The idea, as implemented in Spain, Italy, and a number of other countries with substantial Roman Catholic populations, was to extend the notion of a concordat, which in an earlier day signaled privileged relations with the Roman Catholic Church, to other denominations. The notion was that in the process of moving from a “confessional” to a “neutral” model of the state, this approach was preferable because it allowed other denominations to be “raised” to the level of the Roman Catholic Church, rather than bringing the Catholic Church “down” to the level of other denominations. On the positive side, this approach thus has initial attractiveness as a mechanism for promoting equal treatment. It also has advantages in that it allows the state to be sensitive to significant distinctions between religious groups. Moreover, it is important to note that there have been significant efforts in both Spain and Italy to encourage inclusiveness in this model.

As time goes on, however, an inevitable consequence of a well-intended system that nevertheless differentiates religious groups is beginning to emerge. The difficulty is that once an agreement has been achieved with many of the dominant groups, the political will to enter agreements with smaller groups at some point runs out. Once agreements cover relations with religious communities constituting 90-95% of the population, there is little incentive to provide additional agreements with others. The result is that groups not brought within the umbrella often suffer discrimination in gaining access to tax exempt status and a variety of other benefits often linked to the status of being a group with an agreement. This approach is spreading to other countries such as Poland, Slovakia, Hungary, and Albania. Countries adopting agreement systems should be encouraged to include all religious and belief groups on the same terms, preferably by providing legislation that smaller groups can avail themselves of without difficulty. Perhaps a result can be encouraged such as that which prevails in Germany, according to which if a certain type of benefit is provided in an agreement with one denomination, similar benefits should be made available in agreements with others. It is vital to sound principles of religious freedom and non-discrimination that all religious groups should be treated on equal terms.

VI. RECOMMENDATIONS FOR CONGRESSIONAL ACTION

The United States government is limited in what it can do to help ameliorate the situation in Western Europe, whether in unilateral or multilateral action. Clearly, much remains to be done through education and non-political channels, but there are a number of steps that Congress can take that could have significant impact. We urge Congress to consider taking some of the following steps:

- Congress should encourage the Administration to facilitate dialogue not only with Western European governments, but should actively promote cooperation with non-governmental organizations that have opportunities to reach a wider public. We believe that many of the problems described above reflect government offices that have simply pressed their putative mandates too far, and that an informed public will ultimately help solve the problems.
- Congress should encourage the Administration to provide financial and moral support of existing multilateral organizations that focus on religious freedom issues, such as the OSCE's Advisory Panel of Experts on Freedom of Religion or Belief.⁷⁴
- Congress could appropriate funds, possibly to be channeled through the congressional Commission on Security and Cooperation in Europe, or through the Office of the Ambassador at Large for International Religious Freedom in the State Department, to bring representatives and experts from Western European countries and their counterparts in the United States and Canada together to develop concrete recommendations about how to better implement freedom of religion norms.

⁷⁴For example, visits to France from members of the Advisory Panel together with members of Congress's Helsinki Commission in 1999 helped focus attention on France's draft law and gained some concessions by the French government. *Gunn Testimony*.

- Request the *State Department* to designate additional embassy personnel in selected countries to more conscientiously gather information regarding sect commissions, any Western European governmental response or discrimination resulting from the actions of sect commissions, and the practical effect the commissions are having on religious minorities. The embassy contact officers, could report monthly to the Office of the Ambassador at Large for Religious Freedom, who could in turn brief the European Subcommittee of the Senate Foreign Relations Committee on a quarterly basis.
- Request the *U.S. Commission for International Religious Freedom* to study events in Western Europe and report back to European Subcommittees in 6-8 months with specific policy recommendations. The Commission should be urged to fulfill its legal mandate to “consider and recommend options for policies of the United States Government with respect to each foreign country the government of which has engaged in or tolerated violations of religious freedom. . . .”⁷⁵ We welcome the broader coverage of this year’s report, but believe that even more can be done. The work of the Commission can make significant contributions not only to amelioration of the most serious religious freedom infractions around the world, but may be able to spur significant progress in improving the lesser (and less intractable) problems elsewhere.
- During confirmation hearings for the *newly nominated ambassador to France, Mr. Howard Leach*, and for other West European Ambassadors, stress the importance of religious freedom issues, and assess their willingness to develop and implement more effective measures to help address religious freedom concerns in Europe.
- During confirmation hearings for the new *Assistant Secretary of State for European Affairs*, highlight the importance of religious freedom issues, and thereafter periodically hold hearings in which he or she is required to make an accounting on Administration action in this arena.

We believe that firm but sensitive Congressional action can contribute to the building of better relations in this area and to the ability to help ameliorate the plight of individuals suffering from violations of religious freedom in Western Europe. Such actions are likely to be most effective if they open up opportunities for constructive dialogue concerning how shared Euro-American ideals of religious freedom can be better implemented on both sides of the Atlantic. We believe that long-term engagement in serious dialogue over the implementation of religious freedom in Europe will help alleviate current concerns.

⁷⁵ International Religious Freedom Act of 1998, 22 U.S.C. 6432 (note), sect. 202(b) (emphasis added).

Senator SMITH. Elizabeth, I wonder, before we hear from Rabbi Baker, if we could address just a number of thoughts about your testimony that occur to me. Do you think the French understand how many other countries are looking at this piece of legislation and may implement it albeit perhaps differently than the French may. Given the ambiguity of this legislation that you and many of us have tried to point out, does it not open up some really dangerous avenues for a government, less principled in the rule of law than France, to truly persecute people.

Do you think the French have that sense?

Ms. CLARK. I think it’s an excellent point. I think that a few French legislators who’ve been actively promoting this bill do. There’s some evidence that they’ve been traveling to Eastern Europe, to China, to try and promote that. But I think on the whole there isn’t a complete understanding of the effects this really could have in Eastern Europe and China where there is—there aren’t the long-established protections that France does have, trained judiciary.

Senator SMITH. You did not list a possible action that I’ve contemplated that we could take in the Senate, maybe in Congress

generally. How would a sense of the Senate resolution condemning the legislation might be perceived in France?

Ms. CLARK. I think it would be helpful. It would be a strong step. I think it needs to be done with open communication with French leaders because there's a tendency to ascribe this to anti-French feeling to only increase the hostility that they feel sometimes, the anti-Americanism. But I think that it is important that they know how strongly we feel on this and that we can't back off just because it might offend some people.

Senator SMITH. Since you were in Paris last with Professor Durham have you kept in contact with the French officials with whom we met and others. Do you sense any difference in the legislation? Is it being refined, narrowed, clarified in ways that we didn't perceive at the time?

Ms. CLARK. We have stayed in contact. Unfortunately there haven't been any changes in the legislation itself since that time.

There is increasing awareness though of pressure from the outside and realization of how other members of the world community see this. There's been a letter that was just written last week I believe from members of the Council of Europe asking France to stop, and I think that combined with your involvement and the involvement of the Congress will make a difference.

Senator SMITH. The most chilling thing I've heard today is your inclusion of China as a country looking at this legislation as a model. Ever since I've been a U.S. Senator the relations with China have been tenuous but important. Part of the argument against more integration with China, more engagement with China has been the revulsion at China's treatment of religious minorities.

I just find the possibility that a French law could become a model for a Communist dictatorship and an instrument of persecution under the banner of law—I find that development so chilling that I would plead with the French Government to step back from this abyss and find the way to implement criminal law without confusing the freedom of conscience.

Ms. CLARK. I think that's—you've hit the nail on the head. This is one of the most disturbing facts about this law is how it's going to be exported. That needs to be heightened. I think these hearings have an important role in bringing that to the forefront of attention.

Senator SMITH. Thank you so much, Elizabeth, for being here and for your testimony.

Rabbi Baker, the mike is yours.

STATEMENT OF RABBI ANDREW BAKER, DIRECTOR OF INTERNATIONAL JEWISH AFFAIRS, THE AMERICAN JEWISH COMMITTEE, WASHINGTON, DC

Rabbi BAKER. Thank you, Senator. I thank you. I thank Senator Biden for the opportunity to be here and for the leadership role that you have taken on the issue of religious freedom and anti-Semitism. They're not unrelated topics.

Our American Jewish Committee leadership is coming to Washington beginning this evening for its 95th annual meeting. Part of that gathering will also include some 150 Jewish leaders from around the world, including the leadership of the communities in

France and Austria, Germany, and elsewhere in Europe, and they've appreciated the opportunities in the past to meet with you and I know a number of them look forward to seeing you again this year.

Surely a hallmark of American society and a reason for the vitality and well being of the American Jewish community in American religious life in general have been the constitutional guarantees of the free exercise of religion and protection from state interference. Additionally, the social and cultural environment that has developed over the years here in the United States is one that is respectful, appreciative of the diverse and pluralist nature of the country's many religious groups.

I had the opportunity in a somewhat different role 14 years ago to serve as president of the Interfaith Conference of Metropolitan Washington, an umbrella group of Protestant, Catholic, Mormon, Jewish, and Muslim religious leaders, so one could see very much on the ground the expression of these positions. Really as a result of the unique conditions here Americans of very different faiths have found no contradiction in the individual expression of their religious beliefs, and yet the collective place they all have in our society.

We certainly believe that the special legal and social framework that has worked so well to foster religious freedom in America is a model worth emulating, but we also realize that it may not be the only means to ensure such conditions elsewhere. Many countries do mandate direct government involvement in religious affairs. This may include endorsements of official state religion, collection and distribution of tax funds to maintain institutions to pay the salary of clergy, and laws governing their activities.

I served until the end of last year as the European director for the American Jewish Committee so I could see firsthand much of how this was implemented in those European countries, and I know that this involvement on the face looks troublesome to those accustomed to the American tradition, but it does not automatically in any case mean that religious life is unduly inhibited or religious freedom restricted.

Nevertheless, there is surely a point where regulation leads to unfair restrictions, and where efforts to protect the population from the cult-like activities of a few, the criminal activities of a few, will genuinely inhibit the religious practice of many more, and certainly you have identified this here this morning.

We need to be on guard to the problems that can be created in such situations, and our American roots naturally commend us to err on the side of granting more open religious liberties. It is sometimes the case that government efforts to regulate religious affairs will distinguish between traditional or established religions on the one hand and newer, and perhaps more missionary-oriented groups on the other.

Now, as a rule, Judaism is usually afforded a place among those traditional or established religions, but that by no means assures even Jewish groups that they are automatically immune from some of these problems. Depending on the country, depending on the legislation, we have heard voiced uncertainties, and concerns on the part of both liberal and progressive Jewish groups on one end of

the spectrum and Orthodox Hasidic sects on the other end. Both of them have at times worried that their credentials, too, could be challenged.

While others at this hearing, as Dr. Clark has done, may have voiced more specific attention to the matter in their presentation and in their research, we want to be clear that we share those concerns as well. At the same time the degree of religious freedom and openness that Jewish communities in Europe enjoy in their religious life and practice is also a function of the larger social environment and the general political conditions.

In the 1970's and 1980's international terrorist groups pursuing an anti-Israel agenda frequently targeted synagogues and other Jewish institutions throughout Western Europe, and many were the scenes of bloody physical attacks. The question of religious freedom was as basic as the worshipers's physical safety to congregate. Today if you walk along the Avenue de la Paix in Strasbourg, the Seitensettengasse in Vienna, or Oranienburgerstrasse in Berlin, you will find one thing in common: the presence of heavily armed police standing guard in front of synagogues.

With the signing of the Oslo Accords, the development of an active Middle East peace process, and the general reduction of political tensions, there was a gradual easing of anxiety, a feeling that such strict security measures, though perhaps still a wise precaution, could be relaxed. But this view has proven premature as of last autumn, with Yasir Arafat's turn toward violence and the advent of a new Palestinian Intifadah. Now the sounds of the Middle East conflict are again echoing in Europe.

We've not yet seen a renewal of organized terrorist attacks, though no one is ruling it out, but there has already been sufficient cause for alarm. In France alone, home to about 750,000 Jews, the largest Jewish community in Europe, there's been a marked increase in the number of individual attacks. In the first month after the new Palestinian Intifadah in October there were 15 Molotov cocktails thrown at synagogues, three of which were burnt to the ground. There were reports of over 90 cases of vandalism, of arson, of verbal aggression.

Now, the vast majority of the perpetrators were immigrants from Arab countries who were really intent on venting their anger, their emotional frustration at the conflict in the Middle East, by doing so on nearby targets. A massive increase in police protection has helped to stem the tide of these attacks, and they were condemned by political and religious leaders in the country as well, but there's a continued uneasiness in light of the fact that the country is home to several million immigrants from—or descendants of immigrants from—Arab countries among whom anti-Israel sentiment runs high.

And that uneasiness is present in other Western European countries too, which have also seen similar attacks, and where the Middle East conflict has clearly heightened the general tension.

Central and Eastern European countries, some of them new allies of America under the NATO umbrella, present a somewhat different picture. Decimated by the Holocaust, most of the Jewish survivors from these countries found refuge after the war here in America or in Israel. Those who remained were few in number and

they quickly fell under the numbing tyranny of Communist repression, victims of both state sponsored anti-Semitism and the official hostility toward all religious expression that was a hallmark of communism.

When communism fell, many observers still doubted the possibility of any real restoration of Jewish life considering the damages that had been inflicted. Much to everyone's surprise, these past 10 years have seen the rebuilding of Jewish schools, synagogues, and other essential elements of Jewish communal life, but this does not mean that there is an absence of problems or that the revival of Jewish religious life is assured.

Some of the most vicious crimes of the Holocaust were committed by local collaborators in these countries, sometimes acting individually in organized local battalions or as enlistees in the Waffen-SS. They willingly participated in the persecution, in the murder of their Jewish neighbors. In the immediate aftermath of the war Soviet authorities exacted a measure of justice on some of these criminals, even as they imposed their own harsh punishment on many, many innocent victims.

For decades there has been no open, no objective examination of these events akin to what is taking place in the West. Only in the last 10 years has this even been theoretically possible, but the attention that has been given to the belated tracing of looted Holocaust assets, in large measure because of the support of the U.S. Congress of the American Government, has also forced the beginning of an objective evaluation of the history of this period. It has not been easy and there's much to overcome.

In many cases people who were themselves victims of Soviet oppression could not accept the fact that their brethren also played the role of persecutors. Their selective view of history, clouded by the passing decades, aided by the Communist policy of removing all references to the particular Jewish tragedy under the Nazi crime has even allowed some to seek patriotic models in the autocratic leaders of the Nazi era. Nationalist parties in Slovakia have tried to rehabilitate the war time Nazi puppet leader, Joseph Tiso. Right-wing parties in Romania, some of them allied with the government today, continue to erect statues of the fascist Ion Antonescu. Efforts have begun in Hungary to restore the reputation of pro-Nazi World War II Prime Minister Laszlo Bardossy, someone who was responsible on his own for the enactment of anti-Jewish laws in Hungary.

In the Baltic states, where incorporation into the Soviet Union in 1944 led to mass deportations and the forced transfer of peoples, there were those who viewed the period of Nazi control as a benign experience.

It may be no surprise that in 1941 there were many citizens who welcomed German soldiers as liberators following the first Soviet occupation, but it should be cause for alarm when more than 50 years later significant numbers still hold to such views.

Not long ago Latvian Legionnaires and Waffen-SS veterans found sympathetic government officials willing to join their parades. Only last year a plurality of the Lithuanian Parliament passed initial legislation, quickly rescinded after an international outcry, that declared the date of the Nazi invasion as the country's

official day of independence. Many of the same elements, when confronted with the facts that local collaborators were involved in the murders of 75,000 Jews in Latvia, and 225,000 Jews in Lithuania, respond with the argument that they were in some way seeking “revenge” against the Communists, whose leadership they claimed was dominated by Jews. It is telling that one of the first papers written for the National Historical Commission in Lithuania is intended to dispel the myth of Jewish prominence in the NKVD and the Communist Party as though Communists of Jewish background were somehow pursuing a Jewish agenda in the first place.

During these last several weeks we’ve also witnessed a wide public discussion in Poland engendered by the publication of a slim book detailing the account of a pogrom in the town of Jedwabne in 1941. This book, “Neighbors,” describes how the Polish citizens of one town turned on their fellow Jewish residents in a killing rampage that ended with a mass burning of perhaps as many as 1,000 to 1,600 people, innocent men, women, and children.

Senior political leaders in Poland have responded in a fitting and appropriate manner with an acknowledgment of shame and apology, a commitment to seek out the truth factually and accurately. The memorial plaque in Jedwabne, which had attributed this crime—solely to German troops has been removed and a new one will be dedicated this summer with the participation of President Kwasniewski.

Poland, which suffered greatly under the Nazis, has always viewed itself as a wholly innocent victim of the war. This one account, a commonplace occurrence perhaps elsewhere in Eastern Europe, has now challenged the self image of those in Poland. With the process of self reflection it has released really a largely positive response, but not entirely so.

There are those in Poland, some political leaders, and some leaders of the Catholic clergy who see a dark side to this, a Jewish conspiracy behind the book’s publication. They speak of an international campaign designed to embarrass Poland to demand new Jewish property claims.

The architectural design of the new memorial plaque at Jedwabne has already been presented, but the written text itself has not yet been determined. There are fears that if the wording is too critical of Poles it will likely be defaced.

Now, there are today by the most liberal estimates no more than 30,000 Jews in Poland. The number of Jews in the Baltic states combined perhaps does not even equal that. Throughout the entire region the numbers of Jews in these countries is rather small, yet in each of them there are active, organized Jewish communities which continue to develop in an almost pioneering spirit.

But their future cannot be separated from that larger environment. Their religious freedom is directly dependent on the freedom and willingness of their non-Jewish neighbors to confront, to examine, to come to terms with their shared and at times tragic history. Only then—and much of this is being accomplished with the act of support and encouragement of this Government and of this body—only then do we really stand a chance that they and we will share a common and I hope a bright future.

Thank you for this opportunity, Senator.

[The prepared statement of Rabbi Baker follows:]

PREPARED STATEMENT OF RABBI ANDREW BAKER

I greatly appreciate the opportunity to testify before this Committee on the subject of religious freedom in Europe with particular reference to the state of the Jewish communities there. Surely, a hallmark of American society and a reason for the vitality and well being of the American Jewish community and American religious life in general have been the constitutional guarantees of the free exercise of religion and protection from state interference. Additionally, the social and cultural environment that has developed over the years here in the United States is one that is respectful of the diverse and pluralist nature of the country's many religious groups. As a result of these unique conditions, Americans of different faiths have found no contradiction in the individual expressions of their religious beliefs and their collective place in this society.

We certainly believe that the special legal and social framework that has worked so well to foster religious freedom and life in America is a model worth emulating. But, we also realize that it may not be the only means to insure such conditions elsewhere. Many countries do mandate direct government involvement in religious affairs, which may include endorsements of an official state religion, the collection and distribution of tax funds to maintain religious institutions and provide salaries for clergy, and laws governing their activities. Such involvement may look troublesome to those accustomed to the American tradition, but it does not necessarily mean that religious life is inhibited or religious freedom is restricted.

Nevertheless, there is also a point where regulation will lead to unfair restriction, and where efforts to protect a population from the cult-like activities of a few will genuinely inhibit the religious practice of many more. We should be on guard for the problems that can be created in such situations, and our American roots naturally commend us to err on the side of granting more religious liberties. It is sometimes the case that government efforts to regulate religious affairs will distinguish between traditional or established religions, on the one hand, and newer and perhaps more missionary-oriented groups, on the other. As a rule, Judaism is usually accorded a place among those established religions. But that does not mean Jewish groups are automatically immune from these problems, too. Depending on the country, uncertainties and ambiguities in the language have caused both liberal Jewish congregations and certain Orthodox Hasidic sects to worry at times that their credentials could also be challenged. While others at this hearing may devote more attention to this problem, we do share in their concern and want to be clear in saying so.

At the same time, the degree of freedom and openness that Jewish communities in Europe enjoy in their religious life and practice is also a function of the larger, social environment and general political conditions. In the 1970s and 1980s, international terrorist groups pursuing an anti-Israel agenda frequently targeted synagogues and other Jewish institutions throughout Western Europe, and many were the scenes of bloody attacks. The question of religious freedom was as basic as the worshippers' physical safety to congregate. Today, if you walk along Avenue de la Paix in Strasbourg, Seitensettengasse in Vienna, or Oranienburgerstrasse in Berlin, you will find one thing in common—the presence of heavily armed police standing guard in front of synagogues.

With the signing of the Oslo Accords, the development of an active Middle East peace process and the general reduction of political tensions, there was a gradual easing of anxiety, a feeling that such strict security measures, while still a wise precaution, could be relaxed. But, this view has proven premature as of last autumn, with Arafat's turn toward violence and the advent of a new Palestinian *Intifadah*. The sounds of the Middle East conflict are echoing again in Europe. We have not yet seen a renewal of organized terrorist attacks on Jewish targets—though no one is ruling it out—but there has already been sufficient cause for alarm.

In France alone, home to about 750,000 Jews and the largest community in Europe, there has been a marked increase in the number of individual attacks. In the month of October there were fifteen Molotov cocktails thrown at synagogues, three of which burnt down, and reports of over 90 cases of vandalism, arson and verbal aggression. The vast majority of perpetrators were immigrants from Arab countries, who were intent on venting their anger over the Middle East conflict on convenient targets nearby. A massive increase in police protection helped to stem the tide of these attacks, which were condemned by political and religious leaders alike. But there is a continued uneasiness, in light of the fact that the country is home to several million immigrants, and descendants of immigrants, from Arab countries, among whom anti-Israel sentiment runs high. That uneasiness is present in other

Western European countries, too, which have also seen similar attacks and where the Middle East conflict has heightened tensions.

Central and Eastern European countries present a somewhat different picture. Decimated by the Holocaust, many Jewish survivors found refuge after the war in Israel or America. Those who remained were few in number and quickly fell under the numbing tyranny of Communist repression, victims of both state-sponsored anti-Semitism and an official hostility toward all religious expression. When Communism fell, many observers still doubted the possibility of any real restoration of Jewish life, considering the damages that had been inflicted. Much to everyone's surprise, these past ten years have seen the rebuilding of Jewish schools and synagogues and the other essential elements of Jewish communal life. But, this does not mean that there is an absence of problems or that the revival of Jewish religious life is assured.

Some of the most vicious crimes of the Holocaust were committed by local collaborators in these countries. Sometimes acting individually, in organized local battalions, or as enlistees in the Waffen-SS, they willingly participated in the persecution and murder of their Jewish neighbors. In the immediate aftermath of the war, Soviet authorities exacted a measure of justice on some of these criminals even as they imposed their own harsh punishment on many other innocent victims. For decades there has been no open, objective examination of these events akin to what has taken place in the West. Only in the last ten years has this been even theoretically possible. But, the attention that has been given to the belated tracing of looted, Holocaust assets—in large measure because of the support of the United States Congress and the American Government—has also forced the beginnings of an objective evaluation of the history of this period. It has not been easy, and there is much to overcome.

In many cases, people who were themselves victims of Soviet oppression could not accept that their brethren, too, played the role of persecutors. Their selective view of history, clouded by the passing decades and aided by Communist policy of removing all references to the particular Jewish tragedy from the Nazi crime, has even allowed some to seek patriotic models in the autocratic leaders of the Nazi era. Nationalist parties in Slovakia have tried to rehabilitate the wartime puppet leader, Josef Tiso; right wing parties in Romania—some even in government coalition—continue to erect statues of the fascist, Ion Antonescu; and efforts have begun in Hungary to restore the reputation of the pro-Nazi, World War II Prime Minister Laszlo Bardossy, who was responsible for enacting the country's own anti-Jewish measures.

In the Baltic States, where incorporation into the Soviet Union in 1944 led to mass deportations and the forced transfer of peoples, there were those who viewed the period of Nazi control as a benign experience. It may be no surprise that in 1941 there were many citizens who welcomed German soldiers as liberators following the first Soviet occupation. But, it should be cause for alarm when, more than fifty years later, significant numbers still hold to such views. Not long ago Latvian Legionnaires and Waffen-SS veterans found sympathetic government officials willing to join their parades in Riga. And only last year a plurality of the Lithuanian Parliament passed initial legislation—quickly rescinded after an international outcry—declaring the date of the Nazi invasion as the country's official "day of independence." Many of the same elements, when confronted with the facts of local collaboration in the murder of 75,000 Latvian and 225,000 Lithuanian Jews, respond with the argument that people were only seeking "revenge" against the Communists whose leadership, they claim, was dominated by Jews. It is telling that one of the first papers written for the National Historical Commission in Lithuania is intended to dispel the myth of Jewish prominence in the NKVD and the Communist Party, as though Communists of Jewish background were pursuing a Jewish agenda in the first place.

During these last several weeks we have also witnessed a wide public discussion in Poland engendered by the publication of a slim book, detailing the account of a pogrom in the town of Jedwabne in 1941. *Neighbors* describes how the Polish citizens of this one town turned on their fellow Jewish residents in a killing rampage that ended with the mass burning of perhaps as many as 1,600 men, women and children. Senior political leaders responded in a fitting and appropriate manner, with an acknowledgement of shame and apology and a commitment to seek out the truth factually and accurately. The memorial plaque in Jedwabne, which had attributed the atrocities to German troops, has been removed, and a new one will be dedicated this summer with the participation of the President. Poland, which suffered greatly under the Nazis, had always viewed itself as a wholly innocent victim of the war. This one account—a commonplace occurrence in other Eastern European countries—has now challenged the country's self-image. While the process of self-reflection it has released is largely positive, it is not entirely so. There are also those in

Poland—some political figures and some Catholic clergy—who see a Jewish conspiracy behind the book's publication. They speak darkly of an international campaign designed to embarrass Poland and demand new Jewish property claims. The architectural design of the new memorial plaque at Jedwabne has already been presented, but the written text itself has not yet been determined. There are fears that, if the wording is "too critical" of Poles, it will likely be defaced.

There are today, by even the most liberal estimates, no more than 30,000 Jews in Poland. And that number is probably greater than the total number of Jews living in the three Baltic States. Throughout the entire region the numbers are small. Yet, in each of these countries there are active and organized Jewish communities, which continue to develop in an almost pioneering spirit. But, their future cannot be separated from their environment. Their religious freedom is directly dependent on the freedom and willingness of their non-Jewish neighbors to confront and examine and come to terms with their shared and, at times, tragic history. Only then do we stand a chance that they and we will share a common and, I hope, a bright future.

In closing, I would like to thank the esteemed members of this Committee for allowing me the opportunity to share these remarks. In doing so I also want to call attention to the testimony presented to the Committee on Foreign Relations last year by the American Jewish Committee's Executive Director, David Harris, which addressed the broad subject of anti-Semitism in Europe and which continues to serve as invaluable background material to the issues discussed today.

Senator SMITH. Thank you, Rabbi, for a very profound testimony.

I remember many things that you said, but the obvious conclusion I draw is that a dictatorship of the right or the left tends to beat up on the children of Israel. That's why it's so important that democracy does not give way to these basest of human malignancies of religious discrimination and hatreds.

I recently accompanied Prime Minister Kostov of Bulgaria to the Holocaust Museum, and it was a privilege to be asked to go with him and to witness a display where—Bulgaria's record in the Holocaust certainly was not perfect. At least there was a point at which the Bulgarians refused to export the Bulgarian Jews to the extermination camps, and it was a proud moment for that Prime Minister and certainly the kind of spirit we hope flourishes.

I would note, Rabbi, that when Russia recently passed a law supposedly on religious freedom—it was grossly misnamed. It was designed to restrict freedom—the Jewish faith was specifically included and exempted from the regulation. To the credit of the Jewish leaders it didn't buy off on the law and saw the discrimination aimed at other religious minorities and spoke out about it critically, and I salute them for that.

I wonder if you could tell me where in the last decade the Jewish faith has flourished in Central and Eastern Europe? Where—have they done—who's reaching out? Who's helping? Who's trying to stop some of this stuff that seems to be spreading again?

Rabbi BAKER. We sometimes ascribe the situation facing these Jewish communities as having exchanged old problems for new problems. In the Soviet days anti-Semitism was often a state sponsored vehicle. Jewish involvement was limited, restricted, under police surveillance. If we were successful in easing the rights for Jews to emigrate or to liberalize in some measure their local conditions it really had to do with just dealing with the government leadership itself.

Today there's an openness in this part of the world as we've seen. It's allowed for the possibility of these Jewish communities really to revive. As I said, their numbers are small in Central and Eastern Europe ranging from perhaps no more than a thousand or sev-

eral hundred Jews in Estonia to the largest community in Hungary, maybe 120,000 or more, in no case anything but a small shadow of what existed there before the war.

But I say there are new problems. The problems now are really not ones of government sponsored anti-Semitism, but rather a kind of open environment in which all manner of anti-Semitic literature can now be published and extremist parties can now advocate even openly anti-Jewish or anti-Semitic themes. I would have to say that if there's a concern it's to try and see what one can draw from our experience here in positive ways and apply it there.

One of the arguments we have made to government and political leaders throughout the region is to say that the issue is not necessarily one of the number of anti-Semites, of the number of racists or extremists in a community, in a society. The question really is how many anti anti-Semites are there? How many people are there that are willing, starting with senior government leaders, to speak out at the manifestations of these things? That's what we really need to work on.

Senator SMITH. Absolutely, and I think your testimony underscores in my mind the value of and importance of this hearing. While it's not focused on anti-Semitism, the Jewish people are really the barometer of how we're doing as the human species. They usually take the first punch, and we have to be extremely vigilant, and it is disappointing. We're talking about Western European countries for the most part here today, and the potential exists that laws could be enacted innocent in their motive but ultimately malignant in their application, and you can't be too careful.

Rabbi BAKER. I think the point that you had made and that Dr. Clark has made that many of the newer democracies in Central and Eastern Europe and the countries of the former Soviet Union, who have looked to European Union countries, to Western Europe, for guidance from everything from voting at the United Nations to economic and trade concerns will also see in this a model that is perhaps too unfairly thought of as benign and apply it in their societies as well.

It may be that the Jewish communities in Western Europe, well established, and insular in any case, do not directly feel the impact of such laws, though as I said that's not necessarily always the case. But, surely the issues of how religion is regulated and controlled will have an impact, particularly in parts of the former Soviet Union where you still have large numbers of Jews only beginning the process of formal reorganization of communal life.

Senator SMITH. Rabbi, you are probably aware that some of the stereotypical depictions of Jewish people found in Nazi literature are now being published openly in newspapers in the Middle East, specifically in Egypt. Are you aware of that?

Rabbi BAKER. Yes, we are.

Senator SMITH. Has there been any response by the European community, the European Union, to such things? Is there any outcry at all?

Rabbi BAKER. It's an issue that was raised. One of our activities had been some months back, before the breakdown of the peace process, to evaluate textbooks that are being used in the Palestinian schools, textbooks that really have been produced with fund-

ing from the European Union, and there's clearly a double standard.

In other words, where there have been issues about textbooks published in central Eastern European countries that have tended to gloss over important aspects of World War II history—Slovakia was one example—the European Union countries were very forceful in their criticism, but with regard to what is going on in the Middle East we have not seen that sort of response. Instead we typically would hear expressions that said, well, the peace process is moving along. These things will somehow resolve themselves or take care of themselves once that process is in place.

Ironically now we've seen that the process has broken down probably in some measure due to the fact that people in the society at large have viewed these very anti-Semitic cartoons and these textbook messages that have virtually denied the existence of Israel. The fact is that we've seen how these things really have not been able to bring to the population at large a sense of cooperation and co-existence with the Jewish state.

So I hope that perhaps now these issues will receive more attention in Europe, even though it in many ways is already a lost opportunity.

Senator SMITH. I can tell you there won't be peace in the Middle East if we're fostering this old fashioned, ancient anti-Semitism with Western money, and if children of the Middle East are taught to hate the Jewish people they'll hate the Jewish people as adults. We should not be financing that. We ought to be figuring out how to get beyond that, and that's the purpose of this hearing.

So thank you, Rabbi. Thank you Dr. Clark, and the State Department, Mr. Parmly, for participating in this hearing. I think it's been fruitful.

I hope some observe it in the national assembly and that vote is the right of that country to take, and—but its influence because of the stature of France and Belgium, other countries who contemplate such things, Germany, Austria, the Czech Republic. The influence of Western countries extends beyond borders, and I think we ought to appeal to the best instincts of European history, not its worst, and such laws potentially foster a future that repeats our worst history.

With that, I thank you, and we're adjourned.

[Whereupon, at 12:02 p.m., the hearing was adjourned.]

ANNUAL REPORT OF THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

TUESDAY, JUNE 5, 2001

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met at 10:12 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Sam Brownback, presiding.

Present: Senators Brownback, Sarbanes, Wellstone, and Bill Nelson.

Senator BROWNBACK. The hearing will come to order. Thank you all for joining us today. I thank Senator Wellstone for being here as well.

This is the last hearing that I will be chairing for a little while, hopefully not for too long, although I suppose there would be a dispute on that. Senator Wellstone and I have worked well together, but this is the day, at the end of business today, that the Senate switches over.

There has been some discussion about just continuing this day on, Paul—that we not adjourn this day and see if there is some legal fiction that we could create to extend. But I do not know if that will work.

I am very touched. This is going to be my last hearing addressing the issue of international religious liberty, which has been a subject of great personal commitment and interest on my part during my time in the Senate.

I would also like to express my deep gratitude to Senator Helms for his continuous and unfailing generosity in having allowed us to hold hearings like this over the past several years. I hope that these hearings have shed some light on the darkness of religious oppression and, hopefully and in some small way, have helped serve this great cause of expanded religious freedom throughout the world.

I can say in my personal experience, that has indeed taken place. I just returned from Central Asia and the issues of religious freedom and religious oppression are very much on the leaders' minds. I think it has to do, frankly, with a fair amount of the work that this Commission has done that has elevated and continued the focus on this very important topic.

I would like to make this statement on the record today. I will certainly not be forsaking the topic of religious liberty. Also you, the Commission, can count on my continued support, and I believe as well all the members of this committee, certainly Senator

Wellstone and others, for your noble efforts in promoting this most fundamental right of rights.

Therefore, it is my pleasure to chair this hearing to examine the most recent religious liberty report¹ issued by the U.S. Commission on International Religious Freedom on May 1. This is the second annual report of the Commission and it covers extensive territory.

First, it broadly examines over two dozen countries, while specifically focusing on approximately half of those countries, which will be addressed today by the first three witnesses. The report also discusses issues important to religious liberty advocacy generally, including the extent to which capital market sanctions should be used as a diplomatic tool to promote religious freedom abroad. This topic, among other broad concerns, will be addressed by our last witness, Michael Young.

Since the passage of the International Religious Freedom Act 3 years ago, increased focus has been given to religious persecution as never before, from the grassroots across America to the halls of Congress. This, in turn, has helped to insert the issue of religious liberty into the foreign policy debate, which before this legislation was a forgotten part of foreign policy debate.

Ultimately, this has helped expand freedoms for embattled believers worldwide, as well as sparking individual campaigns of awareness in places such as the Sudan.

Last and most importantly, I want to acknowledge the people who inspired these hearings and reports in the first place. They are the peaceful people of faith who stand against daunting odds in hostile countries. Many are forced to wage individual battles for this precious personal freedom, and individually stand alone with great courage against entire nation-states. I know this is true as I have met with many of them personally through my visits worldwide and sometimes when some have had the opportunity to travel here. It has been some of the most heartening and enjoyable meetings that I have had to witness and to see and to talk with such people of courage and character.

This hearing is one more stone in the path to establishing religious freedom as a universal right for all peaceful but embattled believers wherever they may be. As a Nation blessed with incredible freedom, I consider this to be our reasonable duty. So, do not stop, dear friends. We just might win one of these days and have this well established as a human right of first order and magnitude in every country around the world.

Senator Wellstone.

Senator WELLSTONE. Thank you, Mr. Chairman. We have been able to do some really good work together and we will continue to do some really good work together. I am not sure there will be much difference. The party control will switch, but in terms of our subcommittee, I do not think there will be any difference. I think it will just be a partnership, Sam.

For me, human rights work is first priority. I care about this work as much as any work that I do as a Senator, and the work that you all did in passing the International Religious Freedom Act was so important.

¹The report can be accessed on the Commission's Website at www.uscifr.gov

I do not want to take a lot of time because I just heard that there was an education meeting I have to go to in a while. I want to hear from the panelists. I would like to thank each of you for being here. This is a very important hearing, and so I will not go forward with any lengthy statement right now.

Senator BROWNBACK. Thank you.

Now I would like to introduce our distinguished panel of speakers, all of whom have served as commissioners on the U.S. Commission on International Religious Freedom. Our first of four witnesses is Dr. Firuz Kazemzadeh, also the senior advisor to the National Spiritual Assembly of the Baha'is of the U.S. Our second speaker is Ms. Nina Shea, who is director of the Center for Religious Freedom at Freedom House. I also note that I consider Nina to be a great comrade, and I am glad she is on my side, if you know what I mean by that. Our third speaker is Rabbi David Saperstein, who is the director of the Religious Action Center of Reform Judaism. All three of these witnesses will talk about individual countries, including China, Indonesia, Iran, Sudan, North Korea, among others. Our fourth and last speaker is Mr. Michael K. Young who serves as the dean of the George Washington Law School. He will talk about broader topics related to religious liberty advocacy generally.

Witnesses, I want to thank all of you for joining us today. Dr. Kazemzadeh, please enlighten us. We look forward to your testimony.

STATEMENT OF DR. FIRUZ KAZEMZADEH, FORMER VICE CHAIRMAN, U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM, AND SENIOR ADVISOR, NATIONAL SPIRITUAL ASSEMBLY OF THE BAHAI'S, ALTA LOMA, CA; NINA SHEA, COMMISSIONER, U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM, AND DIRECTOR, CENTER FOR RELIGIOUS FREEDOM, FREEDOM HOUSE, WASHINGTON, DC; RABBI DAVID SAPERSTEIN, FORMER COMMISSIONER, U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM, AND DIRECTOR, RELIGIOUS ACTION CENTER FOR REFORM JUDAISM, WASHINGTON, DC; AND MICHAEL K. YOUNG, COMMISSIONER, U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM, AND DEAN, GEORGE WASHINGTON UNIVERSITY SCHOOL OF LAW, WASHINGTON, DC

Dr. KAZEMZADEH. Thank you and good morning, Mr. Chairman and Senator Wellstone. My name is Firuz Kazemzadeh, and it has been my honor to serve as the vice chairman of the U.S. Commission on International Religious Freedom over the last year.

I would take the liberty of apologizing for my voice, which is a result of a cold I picked up last week in St. Petersburg.

With me are past and current Commission members, Ms. Nina Shea and Dean Michael Young, as well as the former member and first chairman of the Commission, Rabbi David Saperstein. We shall jointly present the Commission's report.

I wish to thank the committee for holding today's hearing on the Commission's second annual report that was issued on May 1. Mr. Chairman, I respectfully request that the Commission's complete

written statement and the executive summary of the Commission's report be entered into the record.

Senator BROWNBACK. Without objection, it will gladly be placed in the record.

Dr. KAZEMZADEH. The Commission's second annual report fulfills an important part of the Commission's statutory mandate to provide independent policy advice to the President, the Secretary of State, and Congress on ways to promote international religious freedom. Our job is to study the State Department's human rights and religious freedom reports and gather additional information through public hearings, meetings with nongovernmental and religious organizations, our own travel, and briefings by experts, and to make policy recommendations that the U.S. Government can implement to promote religious freedom abroad.

Last year, we focused on three countries: China, Russia, and Sudan. This year, with a full year of work and the experience of our first report behind us, we were greatly able to expand our activities to cover more countries and some additional issues. This year's annual report touches on religious freedom issues in almost two dozen countries. Besides updating China, Russia, and Sudan, we have made specific recommendations on Egypt, India, Indonesia, Iran, North Korea, Nigeria, Pakistan, Saudi Arabia, and Vietnam. We have additionally explored the right to persuade another to change his or her religion and have made recommendations regarding U.S. capital markets and foreign assistance. Some of these reports and recommendations were issued during the past year and we have updated them for the inclusion in the annual report.

I should note here that the countries included in the report are not the entire list of serious violators of religious freedom, nor are all of them equally bad. Russia, despite its problems, enjoys a much larger degree of religious freedom than many of the others. In Indonesia and Nigeria, the problem is not a central government that violates religious freedom, but a government that is not doing enough to prevent or punish violations by local or state officials and private citizens.

There is no way I can adequately summarize an almost 200-page report in these few remarks, so let me just hit a few of the highlights. These observations and recommendations represent the commissioners' consensus.

The situation in China has grown worse over the past year as the government has intensified its crackdown on the Falun Gong spiritual movement, on unregistered Protestant and Catholic Christians, on Tibetan Buddhists, and on Uighur Muslims. The Commission believes that the U.S. Government must make religious freedom a high priority in bilateral relations. We reiterate last year's recommendations, including that the U.S. Government do all it can to ensure that Beijing is not selected as a site for the Olympic Games and we commend congressional efforts to that end.

In India, a disturbing increase in violence against minority Christians and Muslims, committed mostly by Hindu nationalists, has coincided with the accession to power of the ruling BJP government, which relies on these nationalists for its core support. The U.S. Government must step up the human rights dialog with the

Indian Government and bolster New Delhi's defense of religious minorities. U.S. foreign assistance funds should be used to support civic groups that teach and foster religious tolerance.

As Indonesia struggles with centrifugal forces trying to tear the country asunder, the most serious religious violence has occurred in the Moluccan Islands where up to 8,000 Christians and Muslims have died in sectarian violence. The violence reached new and more deadly levels when a self-appointed militia of Muslim Laskar Jihad fighters arrived from outside the islands and stepped up attacks on Christians. The U.S. Government must press Indonesia to disarm and remove all outside forces from the Moluccas and step up efforts to promote reconciliation and secure justice.

Like China, Iran has been named by the Secretary of State as a country of particular concern, one of the worst religious freedom violators. Baha'is, whom the government refuses to recognize as a religious minority, get the worst of it, but the situation is grim for Jews, Christians, Zoroastrians, and dissident Muslims as well. In its discussions with Iran, the United States must re-emphasize that improvements in religious freedom and other human rights are a prerequisite for normalization of the Iranian-American relations.

The State Department notes that in North Korea genuine religious freedom does not exist. The government imprisons, tortures, and sometimes executes religious believers and suppresses all religious activity except that which serves state interests. The U.S. Government must insist on improvements in religious freedom and improved access for outside observers to monitor religious freedom conditions as a key part of any improvement in relations with Pyongyang.

Ms. SHEA. Thank you.

Nigeria is, like Indonesia, a country returning to democracy, struggling to survive against forces that would strangle it in the cradle. The movement in several northern Nigerian states to expand the legal application of Shariah has sparked communal violence in which thousands have died and is a source of continuing volatility and tension between Muslims and Christians. The U.S. Government must bolster Nigeria's resolve to prevent communal violence and bring perpetrators to justice. U.S. foreign assistance should also be directed at building tolerance, and Washington should press the Nigerian Government to ensure equal treatment of all religious groups in the building and repairing of places of worship, in education, and in access to broadcast media.

The Government of Pakistan is clearly not doing enough to protect religious freedom. Ahmadis are prevented by law from fully practicing their faith. Christians and other religious minorities are jailed or worse under the country's blasphemy law, and a system of separate electorates for religious minorities politically marginalizes them. In addition, a campaign of violence by Sunni radicals targets Shiite Muslims who then engage in reprisal attacks. The United States should press Pakistan to scrap the separate electorate system, eliminate abuses of the blasphemy law, and repeal laws that prevent discrimination targeting the Ahmadis.

Freedom of religion in Russia remains threatened, with some 1,500 religious groups facing liquidation for failing to meet a De-

cember 31, 2000 registration deadline. While the Putin government appears to be committed to the principle of religious freedom, it remains to be seen how vigorous it will be in addressing the nation's many religious freedom problems, which occur mainly at the local and regional levels. The Commission reaffirms the recommendations it made in last year's annual report regarding Russia, and recommends that the U.S. Government continue to monitor closely the conditions of religious freedom in Russia, including those mechanisms such as the Smith amendment to the Foreign Operations Appropriations bill, at this critical time.

The Commission has found that the Government of Sudan is the world's most violent abuser of the right to freedom of religion and belief and that it is committing genocidal atrocities against the civilian population in the south and the Nuba Mountains. Tragically, the situation in Sudan has grown worse in the 12 months since release of last year's annual report. The Government of Sudan continues to commit egregious human rights abuses, including widespread bombing of civilian and humanitarian targets, abduction and enslavement of women and children by government-sponsored militias, manipulation of humanitarian assistance as a weapon of war, and severe restrictions on religious freedom. The relationship between oil and the government's actions has become clear.

The U.S. Government should now step up humanitarian aid to southern Sudan and the National Democratic Alliance, the Sudanese opposition. Commissioner Al-Marayati has issued a concurring opinion in this regard. The President should appoint a prominent, high-level envoy to work for a just and peaceful settlement of the war, pursuant to the agreed Declaration of Principles, and to press for an end to the Sudanese Government's atrocities against civilians. But the United States should not appoint an ambassador to Khartoum at this time. That would only reward the regime for increased bad behavior.

Foreign companies doing business in Sudan that want to offer securities in U.S. markets should be required to disclose the full extent of their dealings in that country. Mr. Chairman, Senator Wellstone, the Commission was pleased and heartened by the May 8 letter of Laura Unger of the SEC to Congressman Wolf that required such disclosures, and we urge that there be no attempt to dilute these requirements by the Director-designate Harvey Pitt. Because of the close relationship between oil and the Sudanese Government's human rights abuses, foreign companies involved in developing Sudan's oil and gas fields should be barred from issuing or listing securities in U.S. capital markets. And the United States should stop importing gum arabic from Sudan.

The Commission commends the strong statements made in recent days by the President and the Secretary of State on the situation in Sudan and welcomes the President's appointment of a Special Humanitarian Coordinator for Sudan, which the President called a "first step" in addressing that situation, with "more to follow."

Rabbi SAPERSTEIN. In Vietnam, Mr. Chairman, the government prohibits religious activity by those not affiliated with one of the six officially recognized religious organizations. Individuals have been detained, fined, imprisoned, and kept under surveillance for

engaging in illegal—in other words, unauthorized—religious activities. In addition, the government uses the recognition process to monitor and control officially sanctioned religious groups. The U.S. Congress should ratify the pending Bilateral Trade Agreement with Vietnam only after it passes a sense of the Congress resolution calling for the Vietnamese Government to make substantial improvements in the protection of religious freedom or after the Vietnamese Government undertakes obligations to the United States to make such improvements. We have suggested a set of criteria for measuring religious freedom conditions. Until Hanoi makes progress in this regard, the U.S. Government should also withhold support for IMF and World Bank loans to Vietnam, except those for basic human needs. We note that the United States abstained from the recent IMF vote to approve loans to the Vietnamese Government.

Due to the deadlines for printing of our annual report that we have submitted to you, we were not able to include our findings and recommendations with respect to countries that commissioners visited in late March: Saudi Arabia, Egypt, and Israel. On May 14, the Commission released an addendum to the second annual report.

Freedom of religion does not exist in Saudi Arabia as, with few exceptions, the Saudi Government strictly prohibits the public practice of religion other than its interpretation and presentation of the Hanbali school of Sunni Islam. Although the government has taken a position that private worship is allowed, persons worshipping privately have at times been arrested, imprisoned, deported, harassed by the authorities and forced to go to great lengths to conceal private religious activity. The Commission reiterates the recommendation it made last July to former Secretary of State Albright, that Saudi Arabia be named a country of particular concern under the International Religious Freedom Act. The United States should also urge the Saudi Government to expand and safeguard the freedom to worship, to act to control abuses of the religious police, to allow human rights monitors access to the country, and to promote tolerance and inter-religious dialog.

Although there have been some positive developments in the promotion of religious freedom in recent years in Egypt, the Commission finds that serious problems of discrimination against a number of religious groups still remain widespread. With respect to the Christian community, restrictions on church building and repair continue to exist and religiously based discrimination, particularly in government employment, the military and security services, remains a pervasive problem. Justice has still not been realized in the Al-Kosheh incident, and the underlying problems that contribute to the violence there have not been adequately resolved and addressed. Recently 19 Baha'is were arrested on account of their religion and 8 are currently in prison. The Egyptian Government appears to cast too wide a net in its repression of those Muslims it deems to be a threat because they are fundamentalist, and religious activities such as wearing head scarves, growing beards, and attending religious study groups are at times considered by the government to be indicators of both the potential for violence and, more generally, a political threat to the existing order. The press

continues to engage in virulent hate speech against certain groups such as Jews and Baha'is. In light of these problems, the U.S. Government should raise religious freedom issues at the highest levels with the Egyptian Government and urge them to accelerate progress in addressing those issues.

The Commission sees its study of the situation in Israel and the Occupied Territories as a complex matter requiring additional work. The commissioners did not feel they were ready to make a formal report or recommendations. Commissioner Laila Al-Marayati issued a dissenting view.

Mr. YOUNG. Mr. Chairman, Senator Wellstone, in the course of examining the conditions of religious freedom and U.S. policy in several countries, the Commission has made recommendations regarding the specific areas in which religious freedom could be promoted through U.S. foreign assistance. These recommendations are in line with the provisions of the International Religious Freedom Act that explicitly endorse the use of foreign assistance funds to promote religious freedom. This can be done directly, through supporting legal advocacy, technical assistance, or human rights education, and indirectly through supporting programs such as democracy, civil society, rule of law, professional law enforcement, and judicial independence. At the same time, the Commission is concerned that U.S. assistance should not serve to undermine the protection of religious freedom or contribute to religious intolerance and recommends that U.S. foreign assistance is not used to support organizations that engage in violence that targets individuals on the basis of religion or that act as an instrument of official government policies of religious discrimination or to fund programs that discriminate against recipients or beneficiaries on the basis of religion.

Further, on the question of access to U.S. capital markets, the Commission proposes that any American or foreign issuer of securities be required to disclose its business activities in any country designated by the Secretary of State under the International Religious Freedom Act as a country of particular concern. Such disclosure would inform institutional and private American investors of all the economic risks involved in purchasing shares of those companies. And the U.S. Government, including Congress, needs to study how foreign companies structure their securities offerings and manipulate corporate relationships to get around U.S. economic sanctions.

But, in conclusion, before we take any questions you might have, I would like to make two final observations. First, the Commission was gravely disappointed to learn that the United States was not reelected as a voting member of the United Nations Commission on Human Rights this year. The mere fact that a country like Sudan, with its atrocious human rights record, can be and is a voting member of the commission while the United States is not is a symptom of a deeper problem growing within this international body. The United States has consistently spearheaded efforts to introduce resolutions that shine a spotlight on countries that violate human rights, particularly religious freedom. These resolutions often fail to gain needed support. Considering the human rights practices of some members of the U.N. Human Rights Commission,

this is not surprising. However, what is even more disappointing is the conduct of traditional U.S. allies, such as members of the European Union, specifically their failure both to support such resolutions and earlier this month to support the membership of the United States on this important commission in which it has served since its creation in 1947. If the world cannot rely on an international body such as the U.N. Commission on Human Rights to condemn human rights violations when they occur, individual countries must take a stand. I think it is safe to predict that without the United States serving as a member of this commission, violations of religious freedom will be given far less attention and all too often ignored.

Second, the terms of the present commissioners expired on May 14. These commissioners were a most politically, religiously, and professionally diverse group of people. Yet for 2 years, we worked harmoniously together to present to, first, the Clinton administration and now the Bush administration recommendations for promoting international religious freedom. I think that is testimony to my fellow commissioners' devotion to the cause of religious freedom, and I would like to thank them all personally for their commitment and their hard work and the privilege of serving with them.

We would also like to thank Speaker Hastert and Senator Lott for having made timely reappointments to the Commission and urge that both the administration and the remaining senatorial and House appointments be made as soon as possible.

Thank you, and my colleagues and I would now be happy to take any questions you might have.

[The prepared statement of the Commission and the executive summary of the Commission's report follow:]

PREPARED STATEMENT OF FIRUZ KAZEMZADEH, RABBI DAVID SAPERSTEIN, NINA SHEA, AND DEAN MICHAEL YOUNG

Thank you and good morning, Mr. Chairman and members of the Committee. My name is Firuz Kazemzadeh and it has been my honor to serve as the Vice-Chairman of the U.S. Commission on International Religious Freedom over the last year. I wish to thank the Committee for holding today's hearing on the Commission's second Annual Report that was issued on April 30. Mr. Chairman, I respectfully request that the Commission's complete written statement and the executive summary of the Commission's report be entered into the record.

The Commission's second Annual Report fulfills an important part of the Commission's statutory mandate to provide independent policy advice to the President, the Secretary of State, and Congress on ways to promote international religious freedom. Our job is to study the State Department's human rights and religious freedom reports and gather additional information—through public hearings, meetings with non-governmental and religious organizations, our own travel, and briefings by experts—and to make policy recommendations that the U.S. Government can implement to promote religious freedom abroad.

Last year, we focused on three countries—China, Russia, and Sudan. This year, with a full year of work and the experience of our first report behind us, we were able to greatly expand our activities to cover more countries and some additional issues. This year's Annual Report touches on religious-freedom issues in almost two dozen countries. Besides updating China, Russia, and Sudan, we have made specific recommendations on Egypt, India, Indonesia, Iran, North Korea, Nigeria, Pakistan, Saudi Arabia, and Vietnam. We have additionally explored the right to persuade another to change his or her religion and have made recommendations regarding U.S. capital markets and foreign assistance. Some of these reports and recommendations were issued during the past year, and we have updated them for inclusion in the Annual Report.

I should note here that the countries included in the report are not the entire list of serious violators of religious freedom, nor are all of them equally bad. Russia, despite its problems, enjoys a much larger degree of religious freedom than many of the others. In Indonesia and Nigeria, the problem is not a central government that violates religious freedom, but a government that is not doing enough to prevent or punish violations by local or state officials and private citizens.

There is no way I can adequately summarize an almost 200-page report in these few remarks this morning. So let me just hit a few of the highlights. These observations and recommendations represent the Commissioners' consensus.

The situation in *China* has grown worse over the past year as the government has intensified its crackdown on the Falun Gong spiritual movement, on unregistered Protestant and Catholic Christians, on Tibetan Buddhists, and on Uighur Muslims. The Commission believes the U.S. Government must make religious freedom a higher priority in bilateral relations. We reiterate last year's recommendations, including that the U.S. Government do all it can to ensure that Beijing is not selected as a site for the Olympic Games, and we commend Congressional efforts to that end.

In *India*, a disturbing increase in violence against minority Christians and Muslims, committed mostly by Hindu nationalists, has coincided with the accession to power of the ruling BJP government, which relies on these nationalists for its core support. The U.S. Government must step up the human-rights dialogue with the Indian government and bolster New Delhi's defense of religious minorities. U.S. foreign-assistance funds should be used to support civic groups that teach and foster religious tolerance.

As *Indonesia* struggles with centrifugal forces trying to tear the country asunder, the most serious religious violence has occurred in the Moluccan Islands, where up to 8,000 Christians and Muslims have died in sectarian violence. The violence reached new and more-deadly levels when a self-appointed militia of Muslim Laskar Jihad fighters arrived from outside the islands and stepped up attacks on Christians. The U.S. Government must press Indonesia to disarm and remove all outside forces from the Moluccas and step up efforts to promote reconciliation and secure justice.

Like *China*, *Iran* has been named by the Secretary of State as a "country of particular concern," one of the worst religious-freedom violators. Baha'is, whom the government refuses to recognize as a religious minority, get the worst of it, but the situation is grim for Jews, Christians, Zoroastrians, and dissident Muslims as well. In its discussions with Iran, the U.S. must re-emphasize that improvements in religious freedom and other human rights are a prerequisite for normalization of Iranian-American relations.

The State Department notes that in *North Korea*, "genuine religious freedom does not exist." The government imprisons, tortures, and sometimes executes religious believers and suppresses all religious activity except that which serves state interests. The U.S. Government must insist on improvements in religious freedom and improved access for outside observers to monitor religious-freedom conditions as a key part of any improvement in relations with Pyongyang.

Nigeria is, like Indonesia, a country returning to democracy, struggling to survive against forces that would strangle it in the cradle. The movement in several northern Nigerian states to expand the legal application of Shari'ah has sparked communal violence in which thousands have died and is a source of continuing volatility and tension between Muslims and Christians. The U.S. Government must bolster Nigeria's resolve to prevent communal violence and bring perpetrators to justice. U.S. foreign assistance should also be directed at building tolerance, and Washington should press the Nigerian government to ensure equal treatment of all religious groups in the building and repairing of places of worship, in education, and in access to broadcast media.

The government of *Pakistan* is clearly not doing enough to protect religious freedom. Ahmadis are prevented by law from fully practicing their faith; Christians and other religious minorities are jailed or worse under the country's blasphemy law; and a system of separate electorates for religious minorities politically marginalizes them. In addition, a campaign of violence by Sunni radicals targets Shiite Muslims, who then engage in reprisal attacks. The U.S. should press Pakistan to scrap the separate-electorate system, eliminate abuses of the blasphemy law, and repeal laws and prevent discrimination targeting the Ahmadis.

Freedom of religion in *Russia* remains threatened, with some 1,500 religious groups facing "liquidation" for failing to meet a December 31, 2000, registration deadline. While the Putin government appears to be committed to the principle of religious freedom, it remains to be seen how vigorous it will be in addressing the nation's many religious-freedom problems, which occur mainly at the local and re-

gional levels. The Commission reaffirms the recommendations it made in last year's annual report regarding Russia, and recommends that the U.S. government continue to monitor closely the conditions of religious freedom in Russia, including through mechanisms such as the Smith Amendment to the Foreign Operations Appropriations bill, at this critical time.

The Commission has found that the government of *Sudan* is the world's most violent abuser of the right to freedom of religion and belief and that it is committing genocidal atrocities against the civilian population in the south and the Nuba Mountains. Tragically, the situation in Sudan has grown worse in the 12 months since release of last year's Annual Report. The government of Sudan continues to commit egregious human rights abuses—including widespread bombing of civilian and humanitarian targets, abduction and enslavement of women and children by government-sponsored militias, manipulation of humanitarian assistance as a weapon of war, and severe restrictions on religious freedom. The relationship between oil and the government's actions has become clearer. The U.S. Government should now step up humanitarian aid to southern Sudan and the National Democratic Alliance, the Sudanese opposition. Commissioner Al-Marayati has issued a concurring opinion in this regard. The President should appoint a prominent, high-level envoy to work for a just and peaceful settlement of the war—pursuant to the agreed Declaration of Principles—and to press for an end to the Sudanese government's atrocities against civilians. But the United States should not appoint an ambassador to Khartoum at this time; that would only reward the regime for increased bad behavior.

Foreign companies doing business in Sudan that want to offer securities in U.S. markets should be required to disclose the full extent of their dealings in that country. Because of the close relationship between oil and the Sudanese government's human rights abuses, foreign companies involved in developing Sudan's oil and gas fields should be barred from issuing or listing securities in U.S. capital markets. And the U.S. should stop importing gum arabic from Sudan.

The Commission commends the strong statements made in recent days by the President and the Secretary of State on the situation in Sudan, and welcomes the President's appointment of a special humanitarian coordinator for Sudan, which the President called "a first step" in addressing that situation, with "more to follow."

In *Vietnam*, the government prohibits religious activity by those not affiliated with one of the six officially recognized religious organizations. Individuals have been detained, fined, imprisoned, and kept under surveillance for engaging in "illegal" (in other words, unauthorized) religious activities. In addition, the government uses the recognition process to monitor and control officially sanctioned religious groups. The U.S. Congress should ratify the pending Bilateral Trade Agreement with Vietnam only after it passes a sense of the Congress resolution calling for the Vietnamese government to make substantial improvements in the protection of religious freedom, or after the Vietnamese government undertakes obligations to the United States to make such improvements. We've suggested a set of criteria for measuring religious-freedom conditions. Until Hanoi makes progress in this regard, the U.S. government should also withhold support for International Monetary Fund and World Bank loans to Vietnam, except those for basic human needs. We note that the U.S. abstained from the recent IMF vote to approve loans to the Vietnamese government.

Due to the deadline for printing of the Annual Report, we were not able to include our findings and recommendations with respect to countries that commissioners visited in late March: Saudi Arabia, Egypt, and Israel. On May 14, the Commission released an addendum to the second Annual Report.

Freedom of religion does not exist in *Saudi Arabia*, as, with few exceptions, the Saudi government strictly prohibits the public practice of religion other than its interpretation and presentation of the Hanbali school of Sunni Islam. Although the government has taken the position that private worship is allowed, persons worshipping privately have been arrested, imprisoned, deported, harassed by the authorities, and forced to go to great lengths to conceal private religious activity. The Commission reiterates the recommendation it made last July to former Secretary of State Albright that Saudi Arabia be named a country of particular concern under IRFA. The U.S. should also urge the Saudi government to expand and safeguard the freedom to worship; to act to control abuses of the religious police; to allow human rights monitors access to the country; and to promote tolerance and inter-religious dialogue.

Although there have been some positive developments in the promotion of religious freedom in recent years, the Commission finds serious problems of discrimination against a number of religious groups remain widespread in *Egypt*. With respect to the Christian community, restrictions on church building and repair continue to exist and religiously-based discrimination, particularly in government employment,

the military and security services, remains a pervasive problem. Justice has still not been realized in the Al-Kosheh incident, and the underlying problems that contributed to the violence there have not been adequately addressed. Recently, 19 Baha'is were arrested on account of their religion and eight are currently in prison. The Egyptian government appears to cast too wide a net in its repression of those Muslims it deems to be a threat because they are "fundamentalist," and religious activities (such as wearing headscarves, growing beards, and attending religious study groups) are at times considered by the government to be indicators of both the potential for violence and, more generally, a political threat to the existing order. The press continues to engage in virulent hate speech against certain groups such as Jews and Baha'is. In light of these problems, the U.S. Government should raise religious freedom issues at the highest levels with the Egyptian government and urge them to accelerate progress in addressing those issues.

The Commission sees its study of the situation in *Israel and the Occupied Territories* as a complex matter requiring additional work. Commissioners did not feel they were ready to make a formal report or recommendations. Commissioner Laila Al-Marayati issued a dissenting view.

In the course of examining the conditions of religious freedom and U.S. policy in several countries the Commission has made recommendations regarding the specific areas in which religious freedom could be promoted through U.S. foreign assistance. These recommendations are in line with the provisions of IRFA that explicitly endorse the use of foreign assistance funds to promote religious freedom. This can be done directly, through supporting programs such as legal advocacy, technical assistance, or human rights education; and indirectly, by supporting democracy, civil society, rule of law, professional law enforcement, and judicial independence. At the same time, the Commission is concerned that U.S. assistance should not serve to undermine the protection of religious freedom or contribute to religious intolerance, and recommends that U.S. foreign assistance is not used to support organizations that engage in violence that targets individuals on the basis of religion or that act as an instrument of official government policies of religious discrimination, or to fund programs that discriminate against recipients or beneficiaries on the basis of religion.

Further on the question of access to *U.S. capital markets*, the Commission proposes that any American or foreign issuer of securities be required to disclose its business activities in any country designated by the Secretary of State under IRFA as a country of particular concern. Such disclosure would inform institutional and private American investors of *all* the economic risks involved in purchasing those countries' securities. And the U.S. Government, including Congress, needs to study how foreign companies structure their securities offerings and manipulate corporate relationships to get around U.S. economic sanctions.

Before we take any questions you might have, I'd like to make two observations. First, the Commission was gravely disappointed to learn that the United States was not reelected as a voting member of the United Nations Commission On Human Rights (UNCHR) this year. The mere fact that a country like Sudan, with its atrocious human rights record, can be and is a voting member on the UNCHR while the United States is not is a symptom of a deeper problem growing within this international body. The United States has consistently spearheaded efforts to introduce resolutions that shine a spotlight on countries that violate human rights, particularly religious freedom. These resolutions often fail to gain needed support. Considering the human rights practices of some of the members of the UNCHR, this is not surprising. However, what is even more disappointing is the conduct of traditional U.S. allies, such as members of the European Union—specifically, their failure both to support such resolutions and earlier this month to support the membership of the United States on this important commission in which it has served since its creation in 1947. If the world cannot rely on an international body such as the UNCHR to condemn human rights violations when they occur, individual countries must take a stand. I think it is safe to predict that without the United States serving as a member of the UNCHR, violations of religious freedom will be given far less attention and all too often ignored.

Second, the terms of the present commissioners expired on May 14. These commissioners were a most politically, religiously, and professionally diverse group of people. Yet for two years, we worked harmoniously together to present to first the Clinton administration, and now the Bush administration, recommendations for promoting international religious freedom. I think that's testimony to my fellow commissioners' devotion to the cause of religious freedom. I'd like to personally thank them all for their commitment and hard work.

EXECUTIVE SUMMARY

I. COMMISSION ACTIVITIES

The Commission considerably broadened its activities in its second full year, monitoring religious-freedom violations worldwide and increasing the number of countries it would study in depth. In July, the Commission wrote to the Secretary of State to recommend that Laos, Democratic People's Republic of Korea, Saudi Arabia, and Turkmenistan be added to the list of "countries of particular concern" [CPC] as provided for in the International Religious Freedom Act of 1998 (IRFA). It also recommended that Burma, China, Iran, Iraq, Sudan, the Milosevic regime in Serbia and the Taliban in Afghanistan remain on the list. In addition, it wrote that India, Pakistan, Uzbekistan, and Vietnam are serious violators of religious freedom deserving careful State Department monitoring; it also expressed concerns about sectarian violence in Indonesia and Nigeria.

Commissioners testified several times before congressional committees; met with high-ranking State Department officials; held hearings on India, Pakistan, Vietnam, and Indonesia; traveled to several countries; met with foreign diplomats and officials (with State Department concurrence); interviewed numerous representatives of victims of religious-liberty violations; and received background briefings from U.S. diplomats, intelligence officials, and academic experts on the countries it studied for this report. Commissioners wrote several letters during the report period to Presidents Clinton and Bush; the Departments of State and the Treasury; the U.S. Securities and Exchange Commission; the Agency for International Development; the National Endowment for Democracy; and others making policy recommendations or requesting information on issues related to religious freedom discussed in this report.

The Commission studied the freedoms to change religion and to engage in public religious expression and persuasion and found them often under restrictions that in some cases are egregious. In several countries the law prohibits a change in one's religion, and the violator is subject to criminal penalties, including death. The Commission explored several examples and degrees of restrictions on these freedoms and the difficult challenges they pose for U.S. policymakers. The Commission believes that these restrictions merit further investigation and careful consideration and will recommend to their successors that they continue substantial efforts to study and recommend policies to protect this important aspect of religious freedom.

The Commission reported last year that it had not gained full access to cables to and from embassies because of the State Department's assertion of a legal position with which the Commission does not agree. The Department has since constructed a cumbersome and lengthy process whereby Commission staff are able to review cables after they have been redacted. The Commission has tried this system in good faith and concludes that it does not meet the Commission's needs. It can no longer acquiesce to this situation and will propose a more expeditious process to the State Department.

The Commissioners' terms expire on May 14, 2001. They thank those who appointed them for the privilege of serving on this first Commission on International Religious Freedom and look forward to close cooperation with their successors.

II. PEOPLE'S REPUBLIC OF CHINA

In the last year, the government of the People's Republic of China (PRC or China) has expanded its crackdown on unregistered religious communities and tightened its control on official religious organizations. The government has intensified its campaign against the Falun Gong movement and its followers. It apparently has also been involved in the confiscation and destruction of up to 3,000 unregistered religious buildings and sites in southeastern China. Government control over the official Protestant and Catholic churches has increased. It continues to interfere in the training and selection of religious leaders and clergy. At the same time, the government continues to maintain tight control over Uighur Muslims and Tibetan Buddhists. Finally, cases of torture by government officials reportedly are on the rise.

Recommendations

1. In its bilateral relations with China, the U.S. government should persistently urge the Chinese government to take the following steps to protect religious freedom:

- 1.1. Establish the freedom to engage in religious activities (including the freedom for religious groups to govern themselves and select their leaders without interference, worship publicly, express and advocate religious beliefs, and distribute religious literature) outside state-controlled religious

organizations and eliminate controls on the activities of officially registered organizations.

1.2. Permit unhindered access to religious persons (including those imprisoned, detained, or under house arrest and surveillance) by U.S. diplomatic personnel and government officials, the U.S. Commission on International Religious Freedom, and respected international human rights organizations. Release persons from imprisonment, detention, house arrest, or intimidating surveillance who are so restricted on account of their religious identities or activities.

1.3. Permit domestic Chinese religious organizations and individuals to interact with foreign organizations and individuals.

1.4. Cease discrimination against religious followers in access to government benefits, including education, employment, and health care.

1.5. Ratify the International Covenant on Civil and Political Rights.

2. The U.S. government should continue to work vigorously for the resumption of a high-level unconditional human rights dialogue with the PRC government when the Chinese government demonstrates its commitment to protecting religious freedom, for example, by addressing the items listed as 1.1 to 1.5 above.

3. Until religious freedom significantly improves in China, the U.S. government, led by the personal efforts of the President of the United States, should initiate a resolution to censure China at the annual meeting of the UN Commission on Human Rights (UNCHR) and should support a sustained campaign to convince other governments at the highest levels to support it.

4. Companies that are doing business in China should be required to disclose the nature and extent of that business in connection with their access to U.S. capital markets.

5. The U.S. government should raise the profile of conditions of Uighur Muslims by addressing religious freedom and human rights concerns in bilateral talks, by increasing the number of educational opportunities available to Uighurs, and by increasing radio broadcasts in the Uighur language.

6. The U.S. government should use its diplomatic influence with other governments to ensure that China is not selected as a site for the International Olympic Games until it has made significant and sustained improvements in religious freedom and human rights.

7. The State Department should identify specific individuals and entities involved in violations of religious freedom in China.

III. INDIA

The U.S. Commission on International Religious Freedom has directed its attention to India in light of the disturbing increase in the past several years in severe violence against religious minorities in that country. The violence is especially troubling because it has coincided with the increase in political influence at the national and, in some places, the state level of the Sangh Parivar, a collection of exclusivist Hindu nationalist groups of which the current ruling party, the Bharatiya Janata Party, or BJP, is a part.

India is religiously a very diverse country that generally respects religious freedom. India has a democratically elected government and is governed by the rule of law. However, although the BJP-led government may not be directly responsible for instigating the violence against religious minorities, there is concern that the government is not doing all that it could to pursue the perpetrators of the attacks and to counteract the prevailing climate of hostility, in some quarters in India, against these minority groups. Moreover, the increase of violence against persons and institutions based entirely on religious affiliation is an alarming development in India.

Recommendations

1. The U.S. government should persistently press India to pursue perpetrators of violent acts that target members of religious groups.

2. The U.S. government should make clear its concern to the BJP-led government that virulent nationalist rhetoric is fueling an atmosphere in which perpetrators believe they can attack religious minorities with impunity. While fully protecting freedom of expression, firm words and actions from the government of India are required to counteract this belief.

3. The U.S. government should support the stated policy of the BJP to oppose any move toward the nationalization of any religious institutions in India. The U.S. government should also press the government of India to oppose any at-

tempts to interfere with or prohibit ties between religious communities inside India and their co-religionists outside the country, and any government efforts to regulate religious choice or conversion.

4. As the U.S. government pursues greater engagement with India on a full range of issues, it should take advantage of new opportunities for government-to-government cooperation and communication on human rights, including religious freedom.

5. The U.S. should press India to allow official visits from government agencies concerned with human rights, including religious freedom.

6. The U.S. government should encourage and facilitate private-sector communication and exchanges between Indian and American religious groups and other non-governmental organizations interested in religious freedom. The U.S. government should also press India to allow visits from non-governmental human rights organizations and other groups concerned with religious freedom.

7. The U.S. government should allocate funds from its foreign assistance programs for the promotion of education on religious toleration and inclusiveness in India.

8. In the course of working toward improvements in U.S.-Indian economic and trade relations, the U.S. government should take into account the efforts of the Indian government to protect religious freedom, prevent and punish violence against religious minorities, and promote the rule of law. If progress is made, the U.S. should seek ways in which it can respond positively through enhanced economic ties.

IV. INDONESIA

In recent years in Indonesia, numerous serious and tragic conflicts have emerged, including disputes in which religion or religious freedom is a factor. But only in the Moluccas did religion quickly become the defining factor behind the fighting that broke out in January 1999 between the Muslim and Christian communities there. Since the fighting in the Moluccas began, from 5,000 to 8,000 people, Christians and Muslims, have been killed. Houses of worship of both communities have been destroyed. More than 500,000 people, both Christians and Muslims, have been forced to flee in fear of their lives. As this has transpired, there are numerous reports that elements from the Indonesian military and local police forces have done little to stop the fighting. Rather, it is alleged that they have contributed to and perhaps even initiated it. In addition, in the spring of 2000, thousands of fighters from an Indonesian Muslim group, called Laskar Jihad, arrived on the islands, raising the fighting there to new and more-deadly levels. The Indonesian government has also made little effort to halt the conflict; indeed, many observers contend it has not even given it serious attention.

Recommendations

1. The U.S. government should put sustained pressure on the Indonesian government and the Indonesian military to pay serious attention to the brutal conflict in the Moluccas and to make concerted efforts to pursue a reconciliation program that ensures security for both sides and that perpetrators most responsible for the killings are brought to justice.

2. The U.S. government should press the government of Indonesia to attend to the immediate removal of all outside militia forces on the Moluccas, Muslim or Christian. The U.S. government should also press Indonesia to see that these and other groups are disarmed. Moreover, rogue elements in the Indonesian security forces must be brought under control.

3. The U.S. government should support the reconciliation efforts of indigenous or international non-governmental organizations (NGOs) in the Moluccas, including by increasing its funding for such efforts through support for USAID's democracy and good-governance programs, interreligious programs in educational institutions, and other programs in Indonesia. This should include working with respected Indonesian human rights lawyers and academics to devise an emergency program for restoring the rule of law in Indonesia, including in the Moluccas. Within its assistance program to Indonesia, the U.S. government should also increase assistance geared specifically to both Christian and Muslim victims and refugees of the conflict. The U.S. government should also press the government of Indonesia to allow more access to the Moluccas for humanitarian relief organizations, as well as for official representatives or human rights monitors from such groups as the Association of Southeast Asian Nations (ASEAN).

4. The U.S. government should ensure that, if resumed, U.S.-Indonesian military ties be directed toward reform of the Indonesian military.
5. The U.S. government should earmark funds for the training of Indonesian police and prosecutors in human rights, rule of law, and crime investigation.
6. The U.S. government should help support the safeguarding of a free press in Ambon and other major areas in the Moluccas.

V. IRAN

The conditions of religious freedom are very poor in Iran, particularly with respect to minority religious groups that are not officially recognized by the state and those perceived to be attempting to convert Muslims. The Constitution of the Islamic Republic of Iran provides that the official religion of Iran is Islam of the doctrine of the Twelver Jaafari School and stipulates that all laws and regulations, including the Constitution itself, must be based on Islamic criteria. Members of the Baha'i community suffer the worst forms of religious persecution at the hands of the state. The Iranian government does not recognize Baha'is as a religious minority; rather in its view, Baha'is constitute a political organization that was associated with the Shah's regime, is opposed to the Iranian Revolution, and engages in espionage activities on behalf of foreign countries, including Israel. Members of the officially-recognized non-Muslim minorities Christians, Jews and Zoroastrians are subject to legal and other forms of official discrimination. Iranian Sunni leaders have alleged widespread abuses and restrictions on their religious practice. A number of senior Shiite religious leaders who have opposed various religious and/or political tenets and practices of the Iranian government have also reportedly been targets of state repression.

Recommendations

1. The President or Secretary of State should reaffirm to the government of Iran that improvement in religious freedom and other human rights in that country is a prerequisite for the complete relaxation of sanctions by and the normalization of relations with the United States.
2. The U.S. government should consistently, continuously and vigorously press the government of Iran to improve conditions of religious freedom, and should urge its European and other allies to support advocacy for religious freedom in Iran. Voice of America Farsi-language broadcasting into Iran should include regular reporting on religious freedom in Iran and religious-freedom issues in general.
3. The U.S. administration should continue to sponsor annual resolutions of the United Nations Commission on Human Rights condemning Iran's egregious and systematic violations of religious freedom and should recruit the support of other Commission member countries, until such violations cease.
4. The United States should facilitate (through issuance of visas) and remove barriers (such as the U.S. Department of Justice policy of fingerprinting Iranians at ports of entry) to unofficial cultural exchange e.g., academic, religious, athletic, and scientific between the United States and Iran.

VI. DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

In the Democratic People's Republic of Korea (North Korea or the DPRK), despite the difficulty of obtaining reliable information on conditions in the country, it is apparent that religious freedom is non-existent. As the State Department Annual Report on International Religious Freedom—2000 states: "Genuine religious freedom does not exist." The government has imprisoned religious believers and apparently suppresses all organized religious activity except that which serves the interests of the state. Since July 1999, there have been reports of torture and execution of religious believers, including between 12 and 23 Christians on account of their religion.

Recommendations

1. In the course of further discussions with the North Korean government, the U.S. government should strongly urge the DPRK to reaffirm publicly its commitments under the International Covenant on Civil and Political Rights.
2. The U.S. government should press the DPRK to immediately establish conditions whereby the status of religious freedom can be assessed and progress be monitored.
3. The U.S. government should ensure that any permanent peace treaty between the parties to the Korean War include provisions on religious freedom and nondiscrimination in the treatment of religious minorities.

4. The U.S. government should communicate to government of the DPRK that substantial improvements in religious freedom and other human rights in North Korea is a prerequisite for the normalization of relations with and the complete relaxation of sanctions by the United States.

5. The U.S. government should communicate to the DPRK government that when any U.S. diplomatic presence is opened in North Korea, diplomatic personnel should have reasonable access within the country to assess the state of religious freedom and to monitor developments, and that a religious-freedom dialogue should begin and take place at the highest policymaking levels.

6. U.S. government officials should raise the issue of religious freedom and the point that improvement of religious freedom is a central component of the improvement of U.S.-DPRK relations in all high-level diplomatic exchanges with the DPRK.

7. The U.S. government should urge the Republic of Korea and Japan, as part of trilateral coordination among the United States and those two countries, to press human rights and religious freedom in their talks with the DPRK as well.

VII. NIGERIA

Religious life in Nigeria is public, vigorous, and diverse. Nevertheless, Nigeria continues to suffer outbursts of violent communal conflict along religious and ethnic lines, pervasive mistrust among religious and ethnic communities, and reportedly serious lapses in the protection of human rights generally. The threats to religious freedom, including reports of religious discrimination, are serious and ongoing. Moreover, recent events portend a possible deterioration in the conditions of religious freedom. Serious outbreaks of Muslim-Christian violence exacerbated by social, economic, and political conditions that foster religious and ethnic tensions threaten to divide further the populace along religious lines and undermine the foundations of religious freedom in Nigeria.

The movement in several northern Nigerian states to expand the legal application of Shariah has sparked communal violence and is a source of continuing volatility and tension between Muslims and Christians at both the national and local levels. The manipulation of religious doctrines and religious sentiments for political ends by any party poses real dangers to religious freedom, as ethnic, tribal, or communal violence take on more explicitly religious overtones, and religious belief, identity, and practice become more of the target.

Recommendations

1. The U.S. government should make the promotion of religious freedom a high priority in its diplomatic discussions with the Nigerian government and urge President Olusegun Obasanjo to condemn publicly, forcefully, and consistently religious intolerance and discrimination, and to promote religious freedom and mutual understanding between Muslims and Christians.

2. The U.S. government should urge the Nigerian government to counter religiously-based discrimination by doing the following:

2.1. Investigate alleged discriminatory obstacles to establishing and repairing places of worship and work with state and local governments to remove such obstacles where they exist;

2.2. Where offered in public schools, provide religious instruction on a non-discriminatory basis and without compelling any student with a religious objection to attend; and

2.3. Ensure equal access to state-run radio and other government media resources to all religious groups without discrimination.

3. The U.S. government should urge the Nigerian government to monitor closely the implementation of Shariah-based criminal law in northern states: (a) to ensure that it does not apply to non-Muslims and respects the religious freedom rights of all citizens, and (b) to prevent law enforcement activities in northern states by any quasi-official or private corps of Shariah enforcers.

4. The U.S. government should urge the Nigerian government to take effective steps to prevent and contain acts of communal violence, prevent reprisal attacks, and bring those responsible for such violence to justice.

5. The U.S. government should, through its foreign assistance programs:

5.1. Support programs aimed at preventing communal conflict, defusing inter-religious tensions, and promoting religious tolerance and respect for religious freedom and the rule of law; and

5.2. Support programs that foster objective, non-inflammatory, and non-biased reporting by the Nigerian media in a manner consistent with the right to free expression.

6. The U.S. government should make the promotion of religious freedom a high priority and should strengthen its information-gathering efforts throughout Nigeria, particularly in northern states and areas plagued by communal violence.

VIII. PAKISTAN

Although the government of Pakistan does not appear to be engaged in a systematic effort to persecute religious minorities, it is clearly not doing enough to adequately protect the religious freedom of all of its citizens. Members of the Ahmadi religious community are prevented by law from engaging in the full practice of their faith. Religious minority groups (including Christians, Ahmadis, and Hindus) complain that they are politically marginalized by a system of separate electorates, and that this system exacerbates other religious-freedom problems. The criminal laws against blasphemy are abused, resulting in detention of and sometimes violence against religious minorities as well as the targeting of numerous Muslims on account of their religious beliefs. Finally, there is a substantial amount of sectarian violence, largely targeting Shia Muslims, committed by organized groups of religious extremists.

Recommendations

1. The U.S. government should urge the Pakistani government to sign and ratify the International Covenant on Civil and Political Rights.

2. The U.S. government in its bilateral relations with the Pakistani government should take the position that the separate electorate system for religious minorities is inconsistent with democratic principles, the right to equal citizenship, and the protection of political rights without discrimination on the basis of religion as provided in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

3. The U.S. government in its bilateral relations with the Pakistani government should take the position that the existence and enforcement of laws targeting Ahmadis that effectively criminalize the public practice of their faith violates the right to freedom of religion guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The State Department should closely monitor the application and enforcement of laws targeting Ahmadis. The U.S. government should also urge the Pakistani government to effectively prevent discrimination against Ahmadis in government and military employment, and education.

4. The U.S. government should urge the Pakistani government to implement procedural changes to the blasphemy laws that will reduce and aim at ultimately eliminating their abuse. The State Department should monitor the application and enforcement of the blasphemy laws.

5. The U.S. government should urge the Pakistani government to take effective steps to prevent sectarian violence and punish its perpetrators, including disarming militant groups and any religious schools that provide weapons training. The U.S. government should also urge the Pakistani government to establish and support mechanisms of interfaith dialogue that encompass all religious communities in Pakistan, and facilitate widespread dissemination of the work and findings of this dialogue.

6. The U.S. government should urge the Pakistani government to complete the denationalization of Christian schools and colleges in Punjab province.

7. The U.S. government should, through its own foreign assistance and in conjunction with other donors, support the following in Pakistan:

7.1. teacher training and other educational programs in religious tolerance;

7.2. non-governmental organizations engaged in legal advocacy to protect the right to freedom of religion, in particular defense of persons charged under the blasphemy and anti-Ahmadi laws;

7.3. judicial reform and law-enforcement training;

7.4. improvements in the public education system in order to promote the availability and quality of education for all Pakistanis.

IX. RUSSIA

The future of religious freedom in Russia remains uncertain at a critical moment in that nation's history. The Russian federal government has yet to articulate a policy regarding the situation created by its decision not to extend once again the deadline for registration under a 1997 law that required religious organizations to register in order to operate as legal entities. Thus, some 1,500 unregistered religious organizations are subject to "liquidation" by the state. In addition, the government of President Vladimir I. Putin has yet to establish an effective way to ensure that local and regional laws, policies, and practices do not abridge religious freedom.

The Putin government appears to be committed to the principle of religious freedom, and, like the government of Boris Yeltsin before it, has taken several steps to mitigate religious freedom violations. Moreover, the Russian courts, led by the Russian Constitutional Court, have in some cases protected the right to religious freedom and provided remedies for the violation of that right, at times overturning local decisions and ameliorating some of the worst features of the 1997 law. Nevertheless, it is uncertain how vigorous the Putin government will be in dealing with Russia's many religious-freedom problems.

Recommendations

1. The U.S. government should continue to closely and carefully monitor religious-freedom issues and raise them forcefully with the Russian government at the highest levels. The U.S. government should pay particular attention to the Russian government's handling of:

- 1.1. unregistered religious organizations;
- 1.2. discriminatory laws, policies, and practices at the local and provincial level;
- 1.3. anti-Semitic, anti-Muslim, and other extremist activities targeting religious minorities;
- 1.4. visa, residence, and citizenship decisions regarding foreign missionaries and other religious workers;
- 1.5. internal disputes of religious communities; and
- 1.6. demands for a closer cooperation between any arm of the state and the Russian Orthodox Church (ROC) that would result in preferential treatment for the ROC or official discrimination against other religious communities.

2. In light of the current conditions in Russia, the Commission believes that all of its recommendations from May 2000 would still contribute to the promotion of religious freedom there, and therefore reaffirms them. They include supporting programs by Russians aimed at preventing religious intolerance and discrimination and promoting exchanges between U.S. and Russian religious leaders, as well as judges, lawyers, and legal rights organizations. Moreover, the U.S. government should make the humanitarian and human rights crisis in Chechnya a high priority issue in its bilateral relations with Russia.

3. The Smith Amendment is an effective tool for promoting religious freedom in Russia. The Commission recommends that in weighing whether to make the certification required under that law, the President should use the factors listed in Recommendation 1, above.

X. SUDAN

The situation in Sudan has grown worse since the release of the Commission's May 2000 report. The government of Sudan continues to commit egregious human rights abuses including widespread bombing of civilian and humanitarian targets, abduction and enslavement by government-sponsored militias, manipulation of humanitarian assistance as a weapon of war, and severe restrictions on religious freedom. The relationship between oil and the government's actions has become clearer. The Clinton administration did take some steps to address the situation, including successfully working to prevent Sudan from taking a seat at the UN Security Council and earmarking aid to communities in southern Sudan and to the political opposition (the National Democratic Alliance, or NDA). But the issue of Sudan for the most part remained on the back burner of U.S. policy, as the government's own interagency report acknowledged last year. Its actions fell well short of the comprehensive, sustained campaign that the Commission believes is commensurate with the Sudanese government's abuses. The Commission urges the Bush administration to mount such a campaign.

Recommendations

1. The U.S. government should appoint a nationally prominent individual who enjoys the trust and confidence of President Bush and Secretary of State Colin L. Powell, and who has appropriate authority and access whose sole responsibility is directed to bringing about a peaceful and just settlement of the war in Sudan and an end to the religious-freedom abuses and humanitarian atrocities committed by the Sudanese government. The United States should not appoint an ambassador to Sudan at this time.
2. The U.S. government should continue to increase the amount of its humanitarian assistance that passes outside of Operation Lifeline Sudan (OLS) and should press OLS to deliver aid wherever it is needed, especially the Nuba Mountains, with or without the approval of the Sudanese government.
3. The U.S. government should increase its assistance to southern Sudan and the NDA.
4. The U.S. government should launch a major diplomatic initiative aimed at enlisting international pressure to stop the Sudanese government's bombing of civilian and humanitarian targets; ground attacks on civilian villages, feeding centers, and hospitals; slave raids; and instigation of tribal warfare.
5. The U.S. government should strengthen economic sanctions against Sudan and should urge other countries to adopt similar policies. The U.S. should prohibit any foreign company from raising capital or listing its securities in U.S. markets as long as it is engaged in the development of oil and gas fields in Sudan. The U.S. government should not issue licenses permitting the import of gum arabic from Sudan to the United States.
6. Companies that are doing business in Sudan should be required to disclose the nature and extent of that business in connection with their access to U.S. capital markets.
7. The U.S. government should intensify its support for peace negotiations and for the Declaration of Principles, and make a just and lasting peace a top priority of this administration's global agenda.
8. The U.S. government should work to increase human rights and media reporting on abuses in Sudan, including supporting, diplomatically and financially, the placement of human rights monitors in southern Sudan and in surrounding countries where refugee populations are present.

XI. VIETNAM

Despite a marked increase in religious practice among the Vietnamese people in the last 10 years, the Vietnamese government continues to suppress organized religious activities forcefully and to monitor and control religious communities. The government prohibits religious activity by those not affiliated with one of the six officially recognized religious organizations. Individuals have been detained, fined, imprisoned, and kept under close surveillance by security forces for engaging in "illegal" religious activities. In addition, the government uses the recognition process to monitor and control officially sanctioned religious groups: restricting the procurement and distribution of religious literature, controlling religious training, and interfering with the selection of religious leaders.

Recommendations

1. The U.S. Congress should ratify the U.S.-Vietnam Bilateral Trade Agreement (BTA) only after it passes a sense of the Congress resolution calling for the Vietnamese government to make substantial improvements in the protection of religious freedom or after the Vietnamese government undertakes obligations to the United States to make such improvements. Substantial improvements should be measured by the following standards:
 - 1.1. Release from imprisonment, detention, house arrest, or intimidating surveillance persons who are so restricted due to their religious identities or activities.
 - 1.2. Permit unhindered access to religious leaders by U.S. diplomatic personnel and government officials, the U.S. Commission on International Religious Freedom, and respected international human rights organizations, including, if requested, a return visit by the UN Special Rapporteur on Religious Intolerance.
 - 1.3. Establish the freedom to engage in religious activities (including the freedom for religious groups to govern themselves and select their leaders, worship publicly, express and advocate religious beliefs, and distribute religious literature) outside state-controlled religious organizations and elimi-

nate controls on the activities of officially registered organizations. Allow indigenous religious communities to conduct educational, charitable, and humanitarian activities.

1.4. Permit religious groups to gather for annual observances of primary religious holidays.

1.5. Return confiscated religious properties.

1.6. Permit domestic Vietnamese religious organizations and individuals to interact with foreign organizations and individuals.

2. If Congress ratifies the BTA and approves conditional Normal Trade Relations status for Vietnam, it should review Vietnam's progress on the protection of religious freedom as part of an annual review of that status.

3. The United States should withhold its support for International Monetary Fund (IMF) and World Bank loans to Vietnam (except those providing for basic human needs) until the government of Vietnam agrees to make substantial improvements in the protection of religious freedom, as measured by the standards itemized in 1.1 through 1.6 above.

4. The U.S. government should make the protection of religious freedom a high-priority issue in its bilateral relations with Vietnam, including in the annual human rights dialogue with the Vietnamese government and in future trade negotiations, advocating substantial improvement in the protection of religious freedom as measured by the standards itemized as 1.1 through 1.6 above. The U.S. Department of State should advise the office of the U.S. Trade Representative (USTR) on the state of religious freedom and other human rights in Vietnam, and should request that the USTR advance the U.S. government's interests in human rights in and through the negotiations and the provisions of any further trade agreement or companion agreement between the two countries.

5. The U.S. government should insist that the Vietnamese government permit domestic Vietnamese religious and other non-governmental organizations to distribute their own and donated aid.

6. The U.S. government should, through its foreign assistance and exchange programs, support individuals (and organizations, if they exist) in Vietnam that are advocating human rights (including religious freedom), the rule of law, and legal reform. It should also support exchanges between Vietnamese religious communities and U.S. religious and other non-governmental organizations concerned with religious freedom in Vietnam.

7. Until religious freedom significantly improves in Vietnam (as measured by the standards itemized as 1.1 through 1.6, above), the U.S. government should initiate or support a resolution to censure Vietnam at the annual meeting of the UN Commission on Human Rights and should engage in a sustained campaign to persuade other governments to support it.

8. The U.S. government should continue to support the Association for Southeast Asian Nations (ASEAN) Human Rights Working Group, and should encourage the Vietnamese government to join the working group.

9. The United States should continue to support Radio Free Asia broadcasts into Vietnam as a vehicle for promoting religious freedom and human rights in that

XII. U.S. CAPITAL MARKETS

The Commission is concerned that significant and material information about companies doing business in Countries of Particular Concern (CPCs) is being withheld from the U.S. investing public. Foreign companies appear to be able to raise capital in U.S. markets without disclosing their business interests in CPCs, the risks associated therewith, and whether or not the proceeds from the sale of securities will be used to support its business in the CPC (and perhaps to support a foreign government that has been found to engage in or tolerate egregious religious-freedom violations). The problem is especially acute in the case of foreign companies because, unlike U.S. companies, foreign companies are generally permitted under U.S. law to do business in CPCs that are subject to comprehensive U.S. economic sanctions. Moreover, these companies can, in a wide range of circumstances, raise capital in U.S. markets without violating those sanctions. Thus, the issue of adequate disclosure is particularly important. Most important, however, is that reasonably prudent investors in U.S. financial markets may and should deem the information described above as material to their investment decisions.

Recommendations

1. The United States should require any U.S. or foreign issuer of securities that is doing business in a country that has been designated as a CPC under the International Religious Freedom Act of 1998 to disclose in any registration statement filed with the Securities and Exchange Commission for any new offering of securities the following information as to each such country:

1.1. The nature and extent of the business that it and its affiliates are conducting in the particular CPC, (i) including any plans for expansion or diversification and any business relationships with agencies or instrumentalities of the government of the CPC and (ii) specifying the identity of such agencies or instrumentalities;

1.2. Whether it plans to use the proceeds of the sale of the securities in connection with its business in the CPC and, if so, how; and

1.3. All significant risk factors associated with doing business in the CPC, including, but not limited to: (i) the political, economic, and social conditions inside the CPC, including the policies and practices of the government of the CPC with respect to religious freedom; (ii) the extent to which the business of the issuer and its affiliates directly or indirectly supports or facilitates those policies and practices; and (iii) the potential for and likely impact of a campaign by U.S. persons based on human rights concerns to prevent the purchase or retention of securities of the issuer, including a divestment campaign or shareholder lawsuit.

2. The United States should require any issuer that is doing business in a CPC to disclose the information specified in items 1.1 and 1.3 above in its filings with the SEC, including its annual proxy statement or annual report, in the case of a U.S. issuer, or its U.S. markets annual report, in the case of a foreign issuer.

3. The U.S. government, including Congress, should examine how the structuring of securities transactions or the manipulation of corporate relationships by non-U.S. issuers can be used to circumvent U.S. economic sanctions.

XIII. U.S. FOREIGN ASSISTANCE

In its first two years, the Commission has found significant religious-freedom violations in some countries that receive U.S. foreign assistance. Foreign aid can be an important tool to promote religious freedom either directly or indirectly. Foreign assistance can support programs directly concerned with promoting religious freedom, such as legal advocacy, technical assistance, or human rights education. It can also support religious freedom indirectly by supporting programs that promote, for example, democracy, civil society, rule of law, professional law enforcement, and judicial independence.

Recommendations

1. No U.S. foreign assistance should be provided to any U.S. or foreign person (governmental or non-governmental) who, in a foreign country and at any time during the preceding 24-month period, has (a) committed acts of violence targeting individuals on account of their religious belief or practice, or (b) served as an instrumentality of official government policies of invidious religious discrimination. Furthermore, no U.S. foreign assistance should be provided to any program that discriminates against recipients or beneficiaries on the basis of religion.

2. The State Department, in its annual International Religious Freedom Report (or in the classified addendum) should identify (a) agencies or instrumentalities of foreign governments engaged in violations of religious freedom, and (b) nongovernmental entities engaged in violations of religious freedom and describe the nature and extent of those violations.

XIV. THE INTERNATIONAL RELIGIOUS FREEDOM ACT AND THE STATE DEPARTMENT'S "ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM—2000"

Most of the mechanisms established by IRFA are now in their second year of existence, and in September 2000, four significant events occurred with respect to IRFA and U.S. foreign policy related to international religious freedom. First, the State Department issued its "Annual Report on International Religious Freedom—2000" (2000 Annual Report), finding that: "Much of the world's population lives in countries in which the right to religious freedom is restricted or prohibited." Second, then-Secretary of State Madeleine K. Albright announced those countries designated as "countries of particular concern" (CPC) the most egregious violators of religious

freedom. Disappointingly, only those countries named as CPCs in 1999 were so designated in 2000, despite ample evidence that others had met the statutory threshold. Third, Secretary Albright announced the actions that she would take pursuant to IRFA to promote religious freedom in those countries designated as CPCs. Again disappointingly, no additional action was taken against any CPC. And fourth, Robert A. Seiple, the first Ambassador-at-Large for International Religious Freedom, stepped down from his office leaving his post vacant through the date this report went to print.

The State Department has done a highly commendable job in its second annual report of telling the tragic story of religious persecution around the globe. This year's report generally shows a more complete understanding of religious-freedom issues and extensive fact-finding and verification. It reflects hard work on the ground.

In other respects as well, this year's report is an improvement over last year, and the Commission is pleased that some of the recommendations made in its first annual report appear to have been adopted by the Department. The Commission's review of the Department's instruction cable sent to the embassies earlier this year also shows that the Department incorporated many of the Commission's suggestions in what information it solicited from embassy officials.

However, problems remain. In some of the reports, the main thrust of what is happening and why is lost in detail and through omissions of important context. Another notable problem is that this year's report includes a section in the executive summary entitled "Improvements in International Religious Freedom," the contents of which is also reported in the individual country chapters. The Commission believes that the reporting of such "improvements" must be carefully handled in order to avoid misrepresentation of the conditions of religious freedom.

This report is the yardstick with which to measure the U.S. government's progress in meeting the goals of the statute. The Commission urges all those interested in promoting religious freedom to review carefully what the 2000 Annual Report says U.S. policy is toward violators of religious freedom and what the United States is doing to promote religious freedom. Unfortunately, the report shows that in several key countries—those in which significant religious-freedom violations occur—U.S. policies and actions do not reflect the gravity of the situation.

The Commission is very disappointed that the Secretary did not name Laos, the Democratic People's Republic of Korea, Saudi Arabia, and Turkmenistan as CPCs. On July 28, 2000, the Commission wrote to the Secretary concluding that the governments of each of these four countries have engaged in particularly severe violations of religious freedom and thus meet the statutory threshold for designation as CPCs. The Commission's conclusion was based on the information that was available to it at that time. The information contained in the 2000 Annual Report only confirms that these countries should be designated as CPCs.

The Commission regrets the departure in September of Ambassador-at-Large for International Religious Freedom Robert A. Seiple. The Ambassador-at-Large for International Religious Freedom is a very important part of U.S. policy initiatives to promote religious freedom abroad—the 2000 Annual Report calls his office "the fulcrum of the effort to promote religious freedom." A prolonged vacancy in this crucial position threatens U.S. progress in promoting religious freedom. The Commission has urged President Bush to move quickly to fill this vacancy.

The Commission reported last year that it had not gained full access to cables to and from embassies because of the Department's assertion of a legal position (executive privilege as to deliberative process within the administration) with which the Commission does not agree. The Department has since constructed a time-consuming, cumbersome, and lengthy process whereby Commission staff are able to review some cables after they have been redacted. This process means the Commission cannot see cables until months after they are sent, making it difficult for the Commission to formulate timely policy recommendations in fast-moving situations overseas. The Commission has tried this system in good faith and concludes that it does not meet the Commission's needs. It can no longer acquiesce to this situation and will propose a more-expeditious process to the State Department.

International religious freedom has become an important foreign-policy issue. The growing interest in the United States in the conditions of religious freedom around the globe and in the promotion of religious freedom through U.S. foreign policy is exemplified not only by the passage of IRFA but also by increasing public awareness of religious-freedom violations in countries such as China and Sudan. Secretary of State Powell has publicly stated that, in his view, the State Department has not been given adequate resources to perform its functions. The Commission believes that this is particularly true in the religious-freedom area. We further believe that in order to meet its obligations under IRFA and to ensure that the promotion of religious freedom remains a foreign-policy priority, adequate staff must be devoted to

these tasks. The Commission urges the State Department to review its staffing of religious-freedom issues in U.S. embassies and in its regional and functional bureaus, particularly in the Office of International Religious Freedom, and provide an increase in staffing adequate to perform the important task of promoting international religious freedom.

Senator BROWNBACK. Thank you all very much.

The report is an excellent report, very specific and with specific recommendations, which I think is all to its strength as well so that we can have those items in it. I really want to applaud you just in a general note at the outset of this. Having been working on this from the outset, what you folks have been able to do in a short period of time I think has been quite extraordinary, raising the visibility, raising the awareness, raising the issue repeatedly around the world and in a quality fashion. I think you have done an outstanding job and another report that is very, very good.

Mr. Young, I want to start with you, if I could, on this disclosure of business activities that is taking place, which I think is a very positive step for people to have. What do you see continuing to take place? There have been initial steps that have been made to require disclosure. What additional steps do you feel need to take place on disclosure of business activity in countries of particular concern?

Mr. YOUNG. Mr. Chairman, as we read the SEC letter of May 8, it requires disclosure on public offering documents, not necessarily all documents filed with the SEC, but public offering documents for business activities in countries that are under OFAC sanctions. We would expand that to include all public filings with the SEC, including annual reports, and would also expand it to also include, beyond just countries under OFAC sanctions, all countries that are designated as countries of particular concern under the International Religious Freedom Act. Now, there is some overlap between those two groups, obviously, but there are some countries that have been named countries of particular concern that are not necessarily under OFAC sanction right now.

Senator BROWNBACK. So, how many countries then would be designated under this current report that would have to be reporting on the activities?

Mr. YOUNG. Well, as we read the letter—I think the precise implementation remains to be seen—it would include countries for which there are OFAC sanctions like Burma and Sudan. It would also include, I believe, some countries that are under OFAC sanction for terrorism, not necessarily under sanction for international religious freedom. So, there would be some countries beyond those that would be named countries of particular concern and there would be some that would not be subject to it that would be named under the International Religious Freedom Act as countries of particular concern but are not under OFAC sanction right now.

Senator BROWNBACK. I think this is an important step forward so that investors will know this is what is happening in those countries where people are investing. They can have a feel and a sense for that, and that may be something that people will want to take into consideration in their investment decisions and they should have ready access to that information.

Mr. YOUNG. Well, we very much agree, Mr. Chairman. It also, we believe, would give the shareholders an opportunity to make their voice felt in terms of how they might prefer to see the business activities of that corporation conducted. It would also give the U.S. Government a chance to better monitor exactly what kind of business activities were engaged in in these countries, China, I think, being perhaps the principal example of one that would not be covered by the current SEC letter, as we understand it, but we think should be.

Senator BROWNBACK. Rabbi Saperstein, thank you for mentioning in this report Saudi Arabia. That has been a country that for some period of time we have more or less tried to say, well, we do not want to address this with the Saudis for whatever reasons, and there are a couple that come quickly to mind. But I think it is important for this report to be fair and be seen as objective, that it includes all the countries of concern. I appreciate that you have stepped up to address Saudi Arabia on that where we have not previously.

Was that a particularly difficult decision by the Commission to address Saudi Arabia?

Rabbi SAPERSTEIN. No. The Commission had been looking at the issue of Saudi Arabia for a while, and it actually, as long ago as last July in its letter to Secretary Albright, had made the recommendation that Saudi Arabia should be added as a country of particular concern. So, we were glad to have the opportunity to travel there, to meet with people firsthand, both from the government and the religious community. It helped fill in some of the blanks for us.

After our studies on this issue over this past year and our visit to Saudi Arabia, we felt comfortable putting out the report that we did, which laid out the issues exactly. The Commission made, as we do with each of our reports, recommendations to the U.S. Government about how it can engage with the Saudi Government to begin to more effectively address both the deep-rooted issues of fundamental religious freedom and the pervasive limitations on it, and also recommendations of things that could be done around the edges that would make life a bit more palatable even within the restrictions that the Saudis have set. These include allowing clergy from outside the country to visit and to minister, even on private grounds, to the members of minority religious groups, as well as trying to encourage the government to check some of the abuses of the religious police who very often clearly step over the legal limits of what they are supposed to do by interfering with private worship and harassing people who are engaged in private worship in accordance with the government's rules. These are the kinds of interactions that we can do in the short run even while we are addressing some of the systematic long-term issues.

Senator BROWNBACK. Have you had any initial readout from the Saudi Government regarding these recommendations?

Rabbi SAPERSTEIN. Not regarding the recommendations yet. We have not heard back from them. But in the concurrences that Cardinal McCarrick and I wrote—we each wrote concurrences to that part of the report—we pointed out that in our meetings in Saudi Arabia, there seemed to be some significant interest to engage in

dialog with religious leaders from outside of Saudi Arabia about some of these issues and problems and, perhaps to address some of these issues we are talking about, in particular the issue of clergy being able to travel there. So, this kind of dialog—if what we heard is followed through—would be a very positive sign. That is some indication that this whole process is having the kind of desired effect that we would want. Still, even if all of that is done, we have a long way to go until the criteria of the international treaties define as religious freedom—i.e., the criteria used under our International Religious Freedom Act—would be implemented in real life for the people of Saudi Arabia. This includes both the citizens and the foreign visitors and foreign workers who live there who are particularly restricted in their ability to practice their religion.

Senator BROWNBACK. I am glad you have started it because by us not addressing or ignoring it is just a glaring mistake on our part not to.

Ms. Shea, the Sudan has been a focus that I have had and I know you have had for several years as well. It is just so lamentable that it continues to get worse. I had a staff member, Sharon Payt, who is here today, was there in December with a group that helped in the purchase back of 4,100 slaves. The stories that she brought back of individuals—these were, I think, all women and children who were redeemed slaves—were ghastly stories, women that had been enslaved for 5 to 7 years that had gone through mutilation, cuts on their neck, on their chest, gang rapes when they were taken, just the most horrifying circumstances and conditions that they had been through over a period of time. And it does not seem like any of this is abating any. There hopefully can be an increased global focus, and an increased U.S. focus maybe will bring more of that.

I appreciate the specific recommendations that you are putting in here, and I am hopeful that we can continue to press these to where we could get some resolution.

You talk about direct support to the south or to opposition groups. I would like for you to talk a little more in specifics about what the Commission would like to see us do on providing direct support to the opposition.

Ms. SHEA. Yes. We this year recommended that the United States should increase its assistance to southern Sudan and to the NDA in particular. We are urging this so that they can be prepared when peace talks do occur. We urge the United States to take the lead, to take a greater role now in developing a context for implementing the IGAD Declaration of Principles. We call for the appointment of a high-level special envoy who will lead this enterprise of trying to establish a just peace, a peace where religious freedom for the south, as well as the north, will be recognized.

So, this is not lethal aid that we are recommending. We are also recommending that there be larger amounts of humanitarian aid going to the south in places that have not received aid under Operation Lifeline Sudan, and that there be greater aid channeled outside of Operation Lifeline Sudan. But, we are urging that there be aid for greater peace development.

Senator BROWNBACK. It seems to me in the reports I am receiving that there is getting to be an increased focus on the Sudan and there is a strong coalition coming together from all political spectrums. You have been around religious freedom work for a much longer period of time than I have. Does it seem we are finally getting to the critical mass of truly having this issue of religious freedom in the Sudan addressed?

Ms. SHEA. Well, thank you, Mr. Chairman, for that question. Yes, I think it does. I think we are getting to that point. We have had, as you say, a broad coalition that includes a number of human rights groups like Freedom House, my own group, the American Anti-slavery Association, Christian Solidarity International, and also religious groups from the Religious Action Center of Reform Judaism, which Rabbi Saperstein directs, to the U.S. Catholic Bishops Conference, to the Samaritan's Purse, and the Southern Baptist Convention, and the Episcopal Church's Justice and Peace Office.

So, there are many, many groups involved in this enterprise, and we are all united in our belief that there should be a special envoy appointed, that peace should be a very high priority. This coalition is echoing what the Commission's recommendations are now and what they were last year as well, that there should be a tightening of sanctions on Sudan. Oil is a deep concern. It is directly related to the war. It has enabled the Sudanese Government to double its capacity to prosecute the war and its barbarism.

This Commission determined that Sudan was the world's worst violator, the most violent persecutor of religious persecution, that its repression was at genocidal levels. And it has gotten even worse this year. So, the time for a grace period to see if the Government of Sudan is going to improve or get better is over. There needs to be a tightening of this oil loophole at this time to prevent it from carrying out these genocidal policies.

We do not take lightly our recommendation for delisting from capital markets these foreign oil companies that are involved like PetroChina's parent company and, Talisman Energy from Canada. We do not make the suggestion lightly. We know that that is a major step, but this is an exceptional situation where there are genocidal policies involved and the oil is so directly linked to the persecution.

Senator BROWNBACK. Because they are clearing out areas where people are that are of different faiths or backgrounds, but that is also where the oil is.

Ms. SHEA. That is right. We see, in particular, the suffering of the Nuba people where there is a real, real concern and supporting facts that they are becoming extinct, if you will. These people are just being annihilated because the oil pipeline runs through their territory.

Senator BROWNBACK. I think this is going to be a particularly challenging country to the Bush administration, and they seem to be stepping up much more to it. I hope we can continue to offer specific items of what it is going to take for us to continue to press this issue on forward.

Ms. SHEA. Yes. If I may, again, underscore the importance of the statement by the Acting Director of SEC, Laura Unger, in her May

8 letter, in which she calls for further disclosure of the extent and relationship in Sudan of the oil companies' involvement in human rights atrocities. This same letter makes religious persecution a risk factor explicitly. So, that is very important. It is being treated very seriously by Wall Street, I have heard from good sources, it is seen as a major step.

There is some concern now that the new Director of the SEC, Harvey Pitt, will be walking it back. I see Senator Sarbanes has joined us. Welcome, Senator. If you are to be the new chairman of the Banking Committee, I urge you to urge Harvey Pitt during his confirmation hearing as the new Chairman of the SEC not to walk back, not to dilute the brand new disclosure requirements for companies doing business in these sanctioned regimes.

Thank you.

Senator BROWNBACK. Very good. Thank you.

Dr. Kazemzadeh, what about Afghanistan? Did you look at Afghanistan and the lack of religious freedom there?

Dr. KAZEMZADEH. Yes, we did. Of course, in Afghanistan the situation is seemingly hopeless. The government is not fully in control of its own territory, and the government is the perpetrator too. There is oppression of all religious groups including Muslims. The Shiite Muslims suffer just as much as others. The latest news, of course, is that Hindus are supposed to wear distinctive clothing, which only a few weeks ago the Taliban Government denied.

The Commission's recommendations on Afghanistan are essentially that it be proclaimed a country of particular concern, and we have written to Secretary Albright about this because Afghanistan is, perhaps next to Sudan, the greatest violator of religious freedom. I say next to Sudan not because of the intensity of the persecution of other groups but because in Afghanistan there are no such large minorities whom you could possibly exterminate. So, it is only a matter of degree and capacity.

Senator BROWNBACK. I wanted to ask you about an issue I raised last year when you issued your report. Are you having any problems regarding the disclosure of cable traffic by the State Department or others to the Commission? Are you having any difficulty getting the information you need?

Rabbi SAPERSTEIN Mr. Chairman, I am glad that you asked that question. In general, we have had good cooperation between the State Department, both of the last administration and this administration, with our work.

One of the nagging, bewildering, and counterproductive problems, of the few problems that we have had, has been on this issue of access to cables. Even those cables to which either the commissioners and/or the staff have full security clearance, the State Department's procedure has been to have them redacted. They are being redacted by people with the same security levels, and perhaps sometimes even lesser security levels, before we can see them. And that process takes a lot of time. It means the information we get is outdated and often not effective. We are seeing only what the particular staff person that did the redaction thought appropriate.

We believe this is totally out of keeping with what the intent of Congress was in creating the Commission and in asking the government agencies to cooperate with the Commission in providing

information to them. We have urged the State Department to change this procedure and we would be deeply appreciative of anything that you or this committee could do to be helpful in facilitating this frustrating and bewildering problem that we continue to face.

Senator BROWNBACK. Well, you should have access to that information, and we will attempt to provide additional support for you to be able to get that information as you need it.

Rabbi SAPERSTEIN. Thank you, Mr. Chairman.

Senator BROWNBACK. Senator Sarbanes.

Senator SARBANES. Well, thank you very much, Mr. Chairman. First of all, I want to commend you for holding this hearing. I know this is a subject in which you have had a longstanding interest and have done considerable work. I am glad we had this chance to survey the situation under Senator Brownback's chairmanship here. I do not expect the committee's interest to lessen in any way with the changeover. Conceivably it might even intensify, although we have tried to follow this issue quite closely.

I regard the International Religious Freedom Act, the one we passed in 1998, signed into law in October, as an extremely significant act, as I think the panel members know from at least the previous appearance of some of them before the committee. We assume that the new administration is working on getting an ambassador-at-large at the State Department in order to fill that position. Does the Commission know where they stand on that? Do you have any indications at all?

Rabbi SAPERSTEIN. Not yet, Mr. Sarbanes.

Senator SARBANES. I am interested in exactly the status of the Commission. Did you touch upon that in your statements? I apologize. I was not able to be here right at the beginning. Was that touched upon?

Rabbi SAPERSTEIN. We did not really address that issue and we would be delighted to discuss that.

Senator SARBANES. Well, am I correct? There are 10 members of the Commission: the ambassador, in a sense, ex officio, without a vote, and then nine other members. Is that correct?

Rabbi SAPERSTEIN. That is correct.

Senator SARBANES. Are Ms. Shea and Dean Young the only two Commission members at the moment?

Rabbi SAPERSTEIN. That is true.

Senator SARBANES. Well, that is not a very good state of affairs. Do you want to do that, Rabbi Saperstein? Who wants to outline that? You law school deans always want to talk about the legalities.

Rabbi SAPERSTEIN. And law school professors like me give way to the deans.

Mr. YOUNG. Ms. Shea and I would be happy to run the Commission by ourselves.

Unfortunately, as it turns out, with the legislation, we require a quorum of at least six members to take any action at all. So, we really are disabled from doing anything until the remaining appointments are made.

The appointments that remain to be made are the three appointments from the White House and the two Democratic senatorial ap-

pointments and the two House Democratic appointments. So, we really do have seven left to be appointed. We hope that that will happen very, very soon because we really are basically unable to make any recommendations or take any official action on the part of the Commission until at least four more appointments are made.

Senator SARBANES. When did all these terms end?

Mr. YOUNG. They all expired on May 14.

Senator SARBANES. Now, I take it that you are recommending in a reauthorization we do staggered terms. Is that correct?

Rabbi SAPERSTEIN. Staggered terms would obviously obviate this problem. So, that would be a helpful thing for the Congress to do here. It is a real problem. The Democratic appointments from the House and the Senate have not been made and the three White House appointments have not been made. And that, on top of the absence of the ambassador-at-large, is deeply frustrating. It is really grinding this important work to a halt. So, getting the ambassador appointed as soon as possible and these appointments made is vitally important. And to obviate the problem and mitigate it in the future, staggered terms would help significantly. That is part of several pieces of technical corrections that we have requested be made.

Senator SARBANES. Now, you have an authorization until when?

Rabbi SAPERSTEIN. Through this fiscal year.

Senator SARBANES. Only this fiscal year?

Rabbi SAPERSTEIN. Yes. The multi-year authorization that was in the original legislation was changed when another set of technical amendments were made. That was not our recommendation that that be changed. Keeping it would have made things a little bit easier.

The other question is where the appropriations will be done out of. We have made some progress with the leadership of the House indicating that they will be recommending we be brought under the Commerce, Justice and State appropriations. We would hope that that would be something the Senate would do as well. Anything, again, this committee could do to see that that is taken care of would be of enormous help to us. Because of the idiosyncrasy of the circumstances of how we got funded by supplemental legislation originally, we were not in anyone's home, and we need to have that done. So, that is another place that you can be of significant assistance to the work of the Commission.

Senator SARBANES. Now, what kind of authorization are you seeking?

Rabbi SAPERSTEIN. This will be our third year. The budgets have been at the \$3 million range.

Senator SARBANES. No. I want to do the authorization first. You are going to lose your authorization at the end of this fiscal year.

Rabbi SAPERSTEIN. Correct.

Senator SARBANES. So, you want to be reauthorized for how long? What is your recommendation on reauthorization? Forever.

Rabbi SAPERSTEIN. Obviously, ideally a kind of multi-year authorization—I believe in the original legislation it was a 4-year authorization until the sunset of the Commission was supposed to kick in. We hope that that sunset provision will be lifted because we think that the value of this Commission has been clearly af-

firmed by its work. So, we hope, first, the sunset provision will be lifted, and again, some kind of multi-year authorization that you regard as appropriate to the nature of this work would be enacted for the future.

The level is still a \$3 million authorization and appropriation for which we are looking for.

Senator SARBANES. Now, your appropriated for \$3 million this year?

Rabbi SAPERSTEIN. Permit me just 1 second on this. Because we began late the first year of operation, we ended up with \$1 million that had not been spent. We were given a \$2 million appropriation last year to give us the \$3 million that we are spending this year. We are asking for \$2.9 million for this coming year. That consistently follows where we have been spending the resources allocated to us to do our work.

Senator SARBANES. You are asking for \$2.9 million for the fiscal year beginning next October 1?

Rabbi SAPERSTEIN. That is correct, for fiscal year 2002: \$2,949,000.

Senator SARBANES. What do you have for this year?

Rabbi SAPERSTEIN. For this year, it was a \$2 million appropriation added to the \$1 million appropriated the first year that we still had available. So, the effect was a \$3 million appropriation.

Senator SARBANES. Now, am I correct that the administration in its budget has provided \$3 million?

Rabbi SAPERSTEIN. That is correct.

Senator SARBANES. Well, I hope this is a matter we can pay attention to in short order, the authorizations and the appropriations.

On the appropriation, at the moment you are just kind of floating around, getting your appropriation. You are not part of a particular—

Rabbi SAPERSTEIN. That is correct. That is why if we can be part of the Commerce, Justice, and State appropriations, that is the natural home for us. As I said, some of the leadership over on the House side has indicated that would be their hope and will be their recommendation, and we hope this committee can be helpful to us formally or informally in achieving the same result here.

Senator SARBANES. Now, on the staggered terms, what is it you are providing for? Three-year terms and three of them each year or what? What is your recommendation on that score?

Rabbi SAPERSTEIN. With your permission, I want to turn to the staff to see exactly. We talked about the concept and I am not sure exactly where the formulation is now. So, let me ask.

The request is for this to be implemented in two stages. The first is a 2-year term with a 1-year possible reappointment, and then from that point on, the group will be split half and half. We are all off now. In other words, everyone would be reappointed to a 2-year term, with a possibility of a 1-year reappointment, but at that time then split the group into 2-year appointments for five and then stagger them. That is why the 1 year would apply, let us say, four of them, 2 years to five, and from that point on, it will be 2 years every other year for either four or five.

Senator SARBANES. What have you been getting?

Rabbi SAPERSTEIN. It was all of us appointed for 2 years, the term ending on May 14. On May 14, we all went out of office, and for a period of time, there was no one who was a commissioner. Since that time, Mr. Hastert and Senator Lott have made appointments of Dean Young and Nina Shea to be their appointments. Those are single appointments.

Senator SARBANES. I often criticize their judgment, but certainly not in this case.

Rabbi SAPERSTEIN. And appropriately so. These are wonderful appointments that carry forth the work.

But the way it is set up, the White House has three appointments, and whichever party does not control the White House has two appointments in the House and the Senate. None of those seven has been made yet.

Senator SARBANES. Well, we will work on that.

Rabbi SAPERSTEIN. Thank you, sir.

Senator SARBANES. Mr. Chairman, if my colleagues would indulge me, I have two other questions I would like to ask.

Senator BROWNBACK. Yes, please.

Senator SARBANES. Ms. Shea, I caught you at the tail end. Why do you not lay out for me what you want me to ask Harvey Pitt?

Ms. SHEA. Thank you, Mr. Sarbanes.

Senator SARBANES. I think I know, but why do you not give it to me.

Ms. SHEA. Well, as you know, Sudan has been a major focus of this Commission, and we are very concerned about the fact that a terrible, drastic situation has gotten worse in terms of religious persecution over the last year in Sudan. The main reason for this deterioration has been the increased revenues available to the Government of Sudan because of the oil extraction there by foreign companies. American companies are already under sanctions and are not allowed to engage in the oil ventures with Khartoum. However, foreign companies can do that, have done it, and come to U.S. markets to raise capital for those ventures.

One of our recommendations was full disclosure by these foreign companies coming to U.S. capital markets about the extent and nature of their business in Sudan, their investments in Sudan, the facts regarding human rights and religious freedom. This recommendation in part, and especially as it applies to Sudan, was picked up by the acting Director of the SEC, Laura Unger, and she has written a letter of May 8 to Congressman Frank Wolf, in response to a letter he wrote, that the SEC would henceforth require this kind of disclosure for countries under OFAC sanctions. Sudan happens to fall under that. We saw this as a huge step forward, as meeting, at least in major part, one of our recommendations.

There is a concern now and some indications that the incoming Director, Harvey Pitt, may either dilute or walk back this disclosure requirement. I was asking, when you walked in, if you would raise your concern that that not happen at his confirmation hearing.

Senator SARBANES. You have, of course, expanded your list this year, and I gather last year there was some criticism that it was too narrowly focused. But are there any success stories? Can you

point to any countries that were really real problems where the situation has gotten better?

Rabbi SAPERSTEIN. Senator Sarbanes, if I may respond to that. There are different ways of measuring that. In the most egregious countries, the ones that are the countries of particular concern, with one exception—and that is in Serbia—there have really been no significant improvements. In other countries in which there are egregious problems and we made recommendations that they be on the CPC list, there has been very little real progress made.

Where progress happens in those kinds of countries, it happens on a case-by-case basis and part of the work of the ambassador-at-large has been to travel to some of those countries and work in terms of the plight of particular individuals who are in trouble, particularly leaders, often symbolic leaders who symbolize the struggle for freedom more broadly. This happens in a broad range of countries, but where there is progress in the toughest countries or in many of the others, it happens in that way.

So, for example, right now Ms. Shea, who follows this so well—and we all rely on her—pointed out to me that in Vietnam recently Father Ly, who is the Catholic priest who submitted testimony to us at our hearing and who has been an exemplary leader on these issues, was recently arrested. And the venerable Thich Quang Do was put into administrative detention simply for trying to get medical help to the patriarch of the independent Buddhist church. These are the kinds of issues where the State Department often will intervene and act and sometimes has made progress.

There is another answer I think to your important question that is much broader than that. Something truly remarkable is happening for this cause as a result of the legislation that you have created. By mandating an annual report, it means that in every U.S. Embassy across the globe today there are Foreign Service officers who really know this issue. As we have traveled to other countries and met with the embassy staff there, we have been enormously encouraged that there are people who know the issue, who know now all the religious leaders, all of the groups that are in trouble, where before it was total idiosyncratic whether or not that would have occurred. They know the government officials and are working with them. They help avoid bad laws when bad laws are being proposed, and we can cite several instances where intervention by the U.S. Embassy, for example, in Romania and other places, helped raise their awareness that legislation that had been proposed would have been extraordinarily problematic.

Wherever we go across the globe, we hear a consistent message from the members and leaders of the persecuted groups. What a difference it is that we have someone we can go to now, someone who knows us and knows this issue, and who is mandated to care about this issue. They feel the impact of that. That helps avoid many problems that we then do not have to resolve.

The final thing I would point out is, as I have traveled during my year as chair to a number of the countries, I met with representatives of several countries in the democratic world who said we cannot afford to do this, but you ought to know we really make use of your annual report from the Commission and the annual report of the State Department on this issue. We send it out to all

of our people in the field. We ask them to read it. We ask them to work with the American Embassy and to get involved. That also is a major impact and benefit that this process has had.

So, while there are still millions of people who remain persecuted, imprisoned, tortured, harassed simply because they want to live out their religious lives in accordance with their conscience, there are also millions of people who have been helped by this legislation whose plight has been lessened and whose lives are better because of what you created here. And I hope you feel the same measure of pride that we feel in terms of having contributed to that.

Senator SARBANES. Well, thank you all very much.

Mr. Chairman, I would be remiss if I did not thank the members of the Commission that are before us and their other colleagues for the contribution they are making. It is very, very important work and we are very anxious that the Commission be able to carry on in this very committed and independent manner in which it has been conducting its activities. We will try to work on these structural and organizational problems that we were talking about.

Thank you very much.

Senator BROWNBACK. Thank you, Senator Sarbanes.

Senator Nelson.

Senator NELSON. When do you think the Commission will get around to looking at religious freedom in Cuba?

Ms. SHEA. Well, speaking as someone who is going to be going forward in this Commission in the next 2 years, I think that that is certainly a country that we will continue to monitor and will put on our radar screen. There have been recent statements of disappointment I know from the Vatican that they did not see the progress that they had hoped after the Pope's visit. Some evangelical churches have been dismantled and so forth. So, I think that that is a very good suggestion.

Senator NELSON. Do you think that religious freedom should play a part in United States foreign policy, particularly with regard to appropriations, military aid, and foreign assistance?

Mr. YOUNG. Mr. Senator, we do. In fact, we have made some very specific recommendations regarding foreign aid, both positive and negative, in the sense that we believe our foreign aid, as provided in the International Religious Freedom Act, ought to be targeted to activities that would promote human rights generally and freedom of religion in particular. We have also suggested that the government monitor very carefully and not give aid to organizations that may facilitate policies of either religious discrimination or actual persecution or government instrumentalities that might do that. So, I think you are absolutely right about that. The Commission has looked at that and made some recommendations.

We have looked a little less at military aid because at least the countries we have initially identified as among the most abusive do not have deep military ties with the United States, but that is also something we have referenced in our report as well, particularly as you begin to look at countries with which the United States has that kind of a relationship.

Senator NELSON. Thank you, Mr. Chairman.

Senator BROWNBACK. Thank you, Senator Nelson.

I want to thank the Commission again. I just think this is outstanding work, and during my travels abroad, what I find in our embassies and amongst religious leaders as well, is an increased awareness and focus. It is really what you had stated, Rabbi Saperstein, that they know the issue now. They are aware of it. They advocate for it. And there has been a remarkable sea change in a very short period of time that that has taken place and it really has contributed to a substantial growth in human rights of the most fundamental nature, that being how you seek to worship in your own privacy and the way that you want to. So, I commend you. This is some of the best work I think that we do for other people around the world. Godspeed in continuing it.

We will leave the record open the requisite period of time for additional questions that may be submitted. Thank you all for coming. The hearing is adjourned.

Dr. KAZEMZADEH. Mr. Chairman, if I may thank you personally and on behalf of the Commission for all of the support that you and your colleagues have given to this Commission.

Senator BROWNBACK. Well, thank you. And we will leave the record open for that statement.

Thank you very much.

[Whereupon, at 11:18 a.m., the committee was adjourned.]

